

## MICHIGAN

Agnes B. Ruttle, Carsonville.  
 Florence R. Woodbridge, Sidnaw.  
 Curtis Van Prentice, South Haven.  
 James L. Blakeley, Standish.

## MONTANA

Nora M. Henley, Geyser.  
 Stanley A. Yergey, Hardin.  
 Roy D. Beagle, Savage.  
 Alma M. Engle, Somers.  
 William Fraser, Three Forks.

## PORTO RICO

Luis E. Kolb, Utuado.

## SOUTH CAROLINA

Dana T. Crosland, Bennettsville.  
 Benjamin T. Frierson, Conway.  
 Lawrence D. Hagan, Due West.  
 Hamilton R. Burkett, Eastover.  
 Melvin L. Sipe, Fountain Inn.  
 Addie V. Thames, Hemingway.  
 Carolyn M. Venters, Johnsonville.  
 Luther V. Martin, Mullins.  
 LeGrand G. Bolin, Neeses.  
 Andrew R. Barrett, Rock Hill.  
 Rebecca Wimberly, St. Matthews.  
 John C. Luke, Summerville.  
 Albert H. Askins, Timmonsville.  
 Jasper E. Watson, Travellers Rest.  
 James J. Vernon, jr., Wellford.  
 George S. Wilson, Williamston.  
 George R. Hudson, Williston.  
 George H. Hart, York.

## TEXAS

Elizabeth Ingenhuett, Comfort.  
 Ruth S. Marion, Kermit.  
 Alvin O. Fricke, Kingsbury.  
 Edward H. Reinhard, Poth.  
 Susan Sipes, Sinton.  
 Emil J. Spiekerman, Skidmore.

## UTAH

Joseph Odell, Logan.  
 Warren W. Porter, Morgan.  
 John E. Lunt, Nephi.  
 Robert S. Calderwood, Tremonton.

## HOUSE OF REPRESENTATIVES

TUESDAY, January 8, 1929

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O brooding Spirit of God, Thou who dost wear the earth as a flower upon Thy breast, hear our little prayer. While we realize the dark mystery of sin, we are so grateful for the bright message of pardoning and redeeming love; help us to translate into terms of human thought and express it in moral terms of daily conduct. We thank Thee that Thou hast placed eternity in hearts of men; and, Heavenly Father, in Thee only can we find complete satisfaction. Our intellects require Thee in the solution of the deepest problems of life. Thou alone can overtop all finite heights, for in Thee is gathered the fullness of all existence. Help us, direct us, and lead us to-day that our country may have the finest fruitage, our best thinking, and wisest working. Let Thy Holy Spirit be a witness to a Righteous King and moral government in the world. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment bills of the House of the following titles:

H. R. 53. An act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture;

H. R. 3041. An act for the relief of Alfred St. Dennis;

H. R. 4935. An act to authorize the appointment of First Lieut. Clarence E. Burt, retired, to the grade of major, retired, in the United States Army;

H. R. 8798. An act for the relief of William Lentz;

H. R. 8974. An act authorizing the President to order Oren W. Rynearson before a retiring board for a hearing of his case and upon the findings of such board determine whether or not he be placed on the retired list with the rank and pay held by him at the time of his resignation;

H. R. 11071. An act providing for the purchase of 1,124 acres of land, more or less, in the vicinity of Camp Bullis, Tex., and authorizing an appropriation therefor;

H. R. 12897. An act to provide for the acquisition of a site and the construction thereon of a fireproof office building or buildings for the House of Representatives;

H. R. 13033. An act authorizing the Secretary of War to convey certain portions of the military reservation at Monterey, Calif., to the city of Monterey, Calif., for the extension of Alvarado Street;

H. R. 13404. An act authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Louisiana State Museum, of the city of New Orleans, La., the silver service set in use on the battleship *Louisiana*;

H. R. 13503. An act granting the consent of Congress to the State of Minnesota to construct, maintain, and operate a free highway bridge across the Mississippi River at or near Hastings, Minn.;

H. R. 13540. An act granting the consent of Congress to the State Highway Commission of Arkansas to construct, maintain, and operate a bridge across the Ouachita River at a point between the mouth of Saline River and the Louisiana and Arkansas line;

H. R. 13645. An act to establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes;

H. R. 13826. An act authorizing the Interstate Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Missouri River at or near Union, Nebr.; and

H. R. 13848. An act to legalize a bridge across the Potomac River at or near Paw Paw, W. Va.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H. R. 9961. An act to equalize the rank of officers in positions of great responsibility in the Army and Navy;

H. R. 10472. An act to authorize the appointment of Master Sergt. August J. Mack as a warrant officer, United States Army;

H. R. 12449. An act to define the terms "child" and "children" as used in the act of May 18, 1920, and June 10, 1922; and

H. R. 12538. An act for the benefit of Morris Fox Cherry.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2330. An act authorizing reconstruction and improvement of a public road in Wind River Indian Reservation, Wyo.;

S. 3590. An act to amend section 110 of the Judicial Code;

S. 4217. An act to authorize the removal of the Aqueduct Bridge crossing the Potomac River from Georgetown, D. C., to Rosslyn, Va.;

S. 4438. An act authorizing the State of Indiana to construct, maintain, and operate a toll bridge across the Ohio River at or near Evansville, Ind.;

S. 4616. An act to legalize the existing railroad bridge across the Ohio River at Steubenville, Ohio;

S. 4640. An act to provide for the retirement of enlisted men of the Philippine Scouts, and for other purposes;

S. 4721. An act to extend the times for commencing and completing the construction of a bridge across the Potomac River at or near the Great Falls, and to authorize the use of certain Government land;

S. 4739. An act authorizing the Secretary of the Treasury to sell certain Government-owned land at Manchester, N. H.;

S. 4778. An act authorizing the Moundsville Bridge Co. to construct a bridge across the Ohio River at or near the city of Moundsville, W. Va.;

S. 4787. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near the city of Savanna, Ill., and the city of Sahula, Iowa;

S. 4793. An act granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the Cumberland River in the vicinity of Harts Ferry, in Trousdale County, Tenn.;

S. 4848. An act for the relief of T. L. Young and C. T. Cole;

S. 4861. An act authorizing the Brownville Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Missouri River at or near Brownville, Nebr.;

S. 4927. An act for the relief of Peter Shapp;

S. 4957. An act granting the consent of Congress to the Danville & Western Railway Co. to reconstruct, maintain, and operate the existing railroad bridge across the Dan River in Pittsylvania County, Va.;

S. 4976. An act granting the consent of Congress to the counties of Lawrence and Randolph, State of Arkansas, to construct, maintain, and operate a bridge across the Spring River at or near the town of Black Rock, Ark.;

S. 4977. An act granting the consent of Congress to the counties of Lawrence and Randolph, State of Arkansas, to construct, maintain, and operate a bridge across the Spring River at or near Imboden, Ark.;

S. 5038. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Baton Rouge, La.;

S. 5039. An act to extend the times for commencing and completing the construction of a bridge across the Wabash River at Mount Carmel, Ill.;

S. 5059. An act granting the consent of Congress to the Chicago, South Shore & South Bend Railroad to construct, maintain, and operate a bridge across the Grand Calumet River at East Chicago, Ind.;

S. J. Res. 9. Joint resolution to establish a joint commission on insular reorganization; and

S. J. Res. 171. Joint resolution granting the consent of Congress to the city of New York to enter upon certain United States property for the purpose of constructing a rapid-transit railway.

#### NATIONAL PLAZA COMMISSION

The SPEAKER. Under authority of the bill S. 3171, providing for a Presidents' plaza and memorial in the city of Nashville, Tenn., to Andrew Jackson, James K. Polk, and Andrew Johnson, former Presidents of the United States, now a law, the Chair appoints as members of the commission known as the National Plaza Commission on the part of the House the gentleman from Tennessee, Mr. BYRNS, the gentleman from Tennessee, Mr. TAYLOR, and the gentleman from Tennessee, Mr. ESICK.

#### SPEAKER PRO TEMPORE FOR TO-MORROW

The SPEAKER. The Chair designates the gentleman from Connecticut [Mr. TILSON] to preside at the opening of the House to-morrow morning.

#### EXTENSION OF REMARKS IN THE APPENDIX OF THE DAILY RECORD

Mr. JONES. Mr. Speaker, I rise to propound a parliamentary inquiry. I notice that when leave is granted to include an article as a part of remarks in the House it is usually printed in the Appendix, whereas in the other body it seems to be printed in the body of the RECORD. Does this correspond with the rules of the Joint Committee on Printing? My reason for making the inquiry is that yesterday one of the Members of the House asked to have printed an editorial written and signed by another Member of the House, and that it be included as a part of his remarks. It was put in the Appendix. I think properly so. But turning back I find that a similar request upon the part of a Member of another body is included in the body of the RECORD. What is the distinction in the privilege of the two bodies?

The SPEAKER. It is a matter for each body to determine for itself; but the Chair has stated on a number of occasions that he thinks the proper distinction is this, that if a Member obtains the right to extend remarks which he is actually making by placing therein a document which he gets leave to print, that document is printed with those remarks in the main part of the RECORD. If, however, he asks leave to extend remarks not actually made by printing a certain document, that goes in the Appendix.

Mr. JONES. I appreciate that distinction and the reason for it, but those reasons do not seem to apply at the other end of the Capitol.

The SPEAKER. The Chair is not responsible for a great many things that occur at the other end of the Capitol.

Mr. JONES. In this particular instance the Member who made the request asked that it be printed as a part of his remarks.

The SPEAKER. As a part of the remarks that he was actually making on the floor?

Mr. JONES. No. He said, "I ask unanimous consent to extend my remarks by incorporating this editorial as a part of my remarks."

The SPEAKER. That would go in the Appendix. If the gentleman is making remarks on the floor of the House and obtains leave to print any document which helps his argument or refers to matters he is discussing, the Chair thinks that

properly becomes a part of his remarks in the main body of the RECORD; but if he rises and asks unanimous consent to extend his remarks and to incorporate therein a document, letter, or editorial—whatever it may be—that must be printed in the Appendix.

Mr. JONES. I appreciate the force of the Speaker's reasoning, and I am wondering why it does not apply at the other end of the Capitol. I think these articles should go in the Appendix, but I think they should go into the Appendix no matter which wing of the Capitol they come from.

#### BRIDGE ACROSS OHIO RIVER AT STEUBENVILLE, OHIO

Mr. BURTNESS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 4616) to legalize the existing railroad bridge across the Ohio River at Steubenville, Ohio, and pass the same. An identical House bill passed the House yesterday. It was bill H. R. 14802, and is a bill legalizing an existing railroad bridge at Steubenville, Ohio. The two bills are identical.

The SPEAKER. The gentleman from North Dakota asks unanimous consent to take from the Speaker's table the bill S. 4616, and pass the same. The Clerk will report the bill.

The Clerk reported the title of the bill.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

#### JAMES M. BECK ELECTION CASE

Mr. VINCENT of Michigan. Mr. Speaker, I call up the report and resolution from Elections Committee No. 2 in the matter of the right of JAMES M. BECK to a seat in this House.

The SPEAKER. The gentleman from Michigan calls up a resolution which the Clerk will report.

Mr. VINCENT of Michigan. Mr. Speaker, I ask unanimous consent that the resolution be reported in lieu of the report and resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? [After a pause.] The Chair hears none. The Clerk will report the resolution.

The Clerk read as follows:

#### House Resolution 283

*Resolved*, That JAMES M. BECK is entitled to a seat in the Seventieth Congress as a Member of the House of Representatives from the first congressional district of the State of Pennsylvania.

Mr. BROWNING. Mr. Speaker, I offer a substitute for the resolution.

The SPEAKER. The gentleman from Tennessee offers a substitute for the resolution, which the Clerk will report.

The Clerk read as follows:

*Resolved*, That JAMES M. BECK is not entitled to a seat in the Seventieth Congress as a Member of the House of Representatives from the first congressional district of the State of Pennsylvania.

Mr. TILSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TILSON. Do I understand the gentleman from Michigan yielded to the gentleman from Tennessee for that purpose?

The SPEAKER. The Chair assumed that he yielded for that purpose.

Mr. TILSON. For the purpose simply of offering a substitute resolution?

Mr. BROWNING. Yes.

The SPEAKER. The Chair assumed that.

Mr. GARRETT of Tennessee. Will the gentleman from Michigan yield, is it the purpose of the gentleman to have the report printed in the RECORD?

Mr. VINCENT of Michigan. I would be glad to have it printed, and I ask unanimous consent—

Mr. GARRETT of Tennessee. The report and the minority views?

Mr. VINCENT of Michigan. Yes.

Mr. GARRETT of Tennessee. It rather seemed to me in a case of this importance, it is well to have the official report of the committee and minority views printed in the RECORD.

Mr. VINCENT of Michigan. I will ask unanimous consent that the report of the committee and the views expressed by the minority Members be printed in the RECORD at this point.

The SPEAKER. The gentleman from Michigan asks unanimous consent that the entire report, including the views of the minority, be printed in the RECORD. Is there objection? [After a pause.] The Chair hears none.

The matter referred to is as follows:

[H. Rept. No. 975, 70th Cong., 1st sess.]

JAMES M. BECK ELECTION CASE

Mr. VINCENT of Michigan, from the Committee on Elections No. 2, submitted the following report, to accompany the JAMES M. BECK election case:

The Committee on Elections No. 2, having had under consideration the matter of the right of Mr. JAMES M. BECK to his seat as a Representative in the Seventieth Congress from the first congressional district of Pennsylvania, as submitted to said committee under House Resolution 9, after careful consideration of the same, respectfully submits this report to the House of Representatives.

THE QUESTION SUBMITTED

House Resolution 9 reads as follows:

"Whereas it is charged that JAMES M. BECK, a Representative elect to the Seventieth Congress from the State of Pennsylvania, is ineligible to a seat in the House of Representatives for the reason that he was not at the time of his election an inhabitant of the State of Pennsylvania in the sense of the provision of the Constitution of the United States (par. 5 of sec. 2, Art. I) prescribing the qualifications for Members thereof; and

"Whereas such charge is made through a Member of the House, and on his responsibility as such Member upon the basis, as he asserts, of records and papers evidencing such ineligibility:

"Resolved, That the right of JAMES M. BECK to a seat in the House of Representatives of the Seventieth Congress be referred to the Committee on Elections No. 2, which committee shall have power to send for persons and papers and examine witnesses on oath relative to the subject matter of the resolution."

It will be seen at once that the sole question involved is the naked constitutional question as to whether, under the facts, Mr. JAMES M. BECK at the time of his election to the House of Representatives was an inhabitant of Pennsylvania within the meaning of paragraph 2 of section 2, Article I, of the Constitution of the United States. This and no other question is involved. No charge of fraud nor any other wrongdoing is raised against the entire regularity and legality of Mr. BECK's nomination nor election except the one question of his inhabitancy of Pennsylvania.

THE FACTS

Mr. JAMES M. BECK was born in Philadelphia, Pa., July 9, 1861. He was educated in the schools of that city. Later he attended the Moravian College at Bethlehem, Pa. He was admitted to the bar in Philadelphia in 1884, and resided in that city and practiced law there continuously until 1900. During this period he served one term as assistant United States attorney for the district in which Philadelphia is located, and also one term as United States attorney for the same district. In 1900 he was appointed by President McKinley Assistant Attorney General of the United States and came to Washington to discharge the duties of that office, but retained his residence in Philadelphia until 1903, when he resigned from this office. Upon his resignation he went to the city of New York to engage there in the practice of law. At that time he gave up his residence in Philadelphia and acquired a residence in New York City. He continued to reside in New York City until November, 1920. In the intervening period between 1903 and 1920 he acquired a summer home, not suitable for residence except as a summer place, at Sea Bright, N. J., which property he still owns.

In November, 1920, he sold his residence in New York City and came to Washington and purchased a house, which he has owned since, at 1624 Twenty-first Street NW. He purchased this home in Washington in anticipation of being appointed to a position in the Harding administration, and in 1921 he was appointed Solicitor General of the United States by President Harding. He held this position until 1925, when he resigned for the reason that his eyesight was being impaired by the burden of the work connected with that office.

Mr. BECK testified that when he went to New York to practice law in 1903 he did so for the purpose of acquiring a competence; that he never intended to make New York his permanent home; that it was always his intention to return to his native city of Philadelphia when such a competence had been acquired. And that when he sold his residence in New York in 1920 he ceased all residential connection with that city and State.

On April 30, 1925, he was appointed by the mayor of Philadelphia to represent the city of Philadelphia in securing the participation of foreign countries in the Sesquicentennial Exposition held in that city. Again the following year he was appointed as special commissioner of the exposition in foreign countries. On September 28, 1925, under a Federal statute which required that the advisory commission having the Sesquicentennial Exposition in charge should be composed of two members from each State, President Coolidge appointed Mr. BECK as one of the two members from Pennsylvania on the national advisory commission of that exposition.

On April 30, 1925, Mr. BECK made an address at a club function in Philadelphia in which he expressed his intention of resuming his per-

manent home in Philadelphia. In the spring of 1926 he conducted negotiations for the securing of an apartment in that city. An apartment at 1414-1416 Spruce Street, in the building known as the Richelieu Apartments, was selected and agreed upon. Before executing the lease therefor Mr. BECK went to Europe on matters connected with the Sesquicentennial Exposition. The apartment was held for him until his return. On July 6, 1926, he executed the lease for this apartment, in which it was provided that the rental should begin on June 1, 1926, the lease to be for one year with the privilege of renewal thereafter from year to year unless one of the parties thereto gave notice of discontinuance at least two months prior to the end of the current annual period. This was an unfurnished housekeeping apartment. The rental agreed upon was \$110 per month, which the testimony showed Mr. BECK had paid continuously since the beginning of the lease. He immediately furnished the apartment with proper furniture and equipment.

It appeared that the testimony that Mr. BECK, with the exception of occasions when he was absent in Europe on business connected with the sesquicentennial, and except for summer periods spent in his Sea Bright summer home, has occupied this apartment one or more times each week. His sister, Miss Helen Beck, has also occupied the apartment for a considerable portion of the time it has been under lease. On numerous occasions when Mr. BECK was in Philadelphia, and his sister also was occupying the apartment while Mr. BECK made it his headquarters, it frequently occurred that he would spend the night near by at the Art Club of Philadelphia, of which he has been a member for years. The apartment consists of a living room, a bedroom, a kitchen, and a bathroom. Mr. BECK has retained his Washington house fully furnished and has occupied it whenever he desired during all of this period. He testified that he retained his Washington residence in the main because his professional work largely consisted of cases before the Supreme Court of the United States. He has a law office in the city of Washington, but not in partnership with any other attorney. His private business affairs are all conducted in Philadelphia, the Girard Trust Co. being his fiscal agent.

While Mr. BECK was a resident of New York he voted in that city. While he was Solicitor General of the United States he registered and voted from his summer home in Sea Bright, N. J. The last vote he cast there was in the presidential election of 1924. He testified that on account of his intention to reidentify himself with his native city of Philadelphia and to resume his citizenship in the State of Pennsylvania he refrained from voting elsewhere after 1924.

The law of Pennsylvania contains a requirement of a residence of one year in that State in order to qualify for registration for electoral purposes, except that in the case of one that has theretofore been a citizen of that State and, having resided elsewhere, has returned to the State of Pennsylvania, such residence requirement is reduced to six months. It is also required that in order to register in Pennsylvania one must have paid a tax of some sort; and if one has not paid a real estate or personal property tax, then one must pay a poll tax of 25 cents and hold the receipt at the time of registration. Mr. BECK paid this poll tax in September, 1927, and offered himself for registration as a voter in September, 1927, and was registered. He voted in the primaries in the city of Philadelphia on September 20, 1927. He was assessed for a personal-property tax on a valuation of \$20,000 in Philadelphia on October 3, 1927. This tax did not become payable until after the expiration of the year 1927.

After the primary of September 20, 1927, the Representative elect from the first congressional district of Pennsylvania, Mr. Hazlett, resigned, and to fill the vacancy so caused the proper Republican authorities nominated Mr. BECK for Representative in Congress on the Republican ticket. The Democratic Party nominated Mr. J. P. Mulrenan. At the election on November 6, 1927, Mr. BECK was elected by a majority of approximately 60,000.

As tending to prove his constant intention to reidentify himself with Philadelphia and to resume his citizenship thereof, Mr. BECK testified concerning his membership in many social and civic institutions of that city, most of these memberships having existed for many years. Among these were the Fairmount Park Art Association, of which he had been president and is now vice president and general counsel—its purpose is the improvement of the city by the erection of works of art therein; the Philadelphia Commission, having a somewhat similar purpose as that of the foregoing association; the City Parks Association, having a somewhat similar purpose; the American Philosophical Society; the Art Club; the Legal Club; the Shakespeare Society; the Mahogany Tree Club; the Franklin Inn Club; the General Alumni Society of the University of Pennsylvania; the New England Society of Pennsylvania; the Historical Society of Pennsylvania; the Five O'Clock Club; the Orpheus Club; the Friendly Sons of St. Patrick. It is proper to say in connection with the memberships in these clubs and associations that two of the clubs carry a separate roster for resident and nonresident memberships. Mr. BECK stated that he did not personally draw the checks for membership dues in these organizations but that this matter was taken care of by his secretary. In the late fall of 1927 his attention was called to the question as to whether he ought not to change from the nonresident classification to resident classification in the Art Club. This he attended to as soon as the matter was brought to his notice.

In the case of the other club having the two classifications, he was carried as a nonresident member.

It is proper to add also that the house in Washington is an attractive, commodious, well-furnished house, in which there is much more room and much more valuable furniture and equipment than in the Philadelphia apartment, and that in the matter of number of days actually spent by Mr. BECK in these two places of abode since the acquiring of the Philadelphia apartment, more days have been spent in the Washington house than in the Philadelphia apartment. It further appeared that Mr. BECK had on occasions when he was a guest in hotels registered from Washington, and that his automobiles bear license plates provided by the District of Columbia.

#### THE CONSTITUTIONAL PROVISION

Paragraph 2 of section 2, Article I of the Constitution, provides as follows:

"No person shall be a Representative who shall not have attained the age of 25 years and been seven years a citizen of the United States and who shall not, when elected, be an inhabitant of that State in which he shall be chosen."

#### THE PROCEEDINGS IN THE CONSTITUTIONAL CONVENTION

To determine whether the facts applicable to the case of Mr. BECK place him within the meaning of the framers of the Constitution in their use of the word "inhabitant," it is of the greatest importance to consider the debate which occurred at the time this provision was adopted. This particular provision of the Constitution was considered on Wednesday, August 8, 1787, and as it came before the convention the provisions were the same as now except that citizenship of the United States for a period of three years was required, and it was also required that the Representative should be a "resident" of the State from which he should be chosen. The following is the entire debate contained in the Madison Papers on this paragraph of the Constitution:

"Col. Mason was for opening a wide door for emigrants; but did not chuse to let foreigners and adventurers make laws for us & govern us. Citizenship for three years was not enough for ensuring that local knowledge, which ought to be possessed by the Representative. This was the principal ground of his objection to so short a term. It might also happen that a rich foreign Nation, for example Great Britain, might send over her tools who might bribe their way into the Legislature for insidious purposes. He moved that 'seven' years instead of 'three' be inserted.

"Mr. Govr. Morris seconded the motion, & on the question, All the States agreed to it except Connecticut.

"Mr. Sherman moved to strike out the word 'resident' and insert 'inhabitant,' as less liable to misconstruction.

"Mr. Madison seconded the motion. Both were vague, but the latter least so in common acceptation, and would not exclude persons absent occasionally for a considerable time on public or private business. Great disputes had been raised in Virginia, concerning the meaning of residence as a qualification of Representatives which were determined more according to the affection or dislike to the man in question, than to any fixt interpretation of the word.

"Mr. Wilson preferred 'inhabitant.'

"Mr. Govr. Morris was opposed to both and for requiring nothing more than a freehold. He quoted great disputes in New York occasioned by these terms, which were decided by the arbitrary will be of the majority. Such a regulation is not necessary. People rarely chuse a nonresident. It is improper as in the 1st branch, *the people at large*, not the states, are represented.

"Mr. Rutledge urged & moved that a residence of 7 years should be required in the State wherein the Member should be elected. An emigrant from New England to South Carolina or Georgia would know little of its affairs and could not be supposed to acquire a thorough knowledge in less time.

"Mr. Read reminded him that we were now forming a National Government and such a regulation would correspond little with the idea that we were one people.

"Mr. Wilson enforced the same consideration.

"Mr. Madison suggested the case of new states in the West, which could have perhaps no representation on that plan.

"Mr. MERCER. Such a regulation would present a greater alienism among the States than existed under the old federal system. It would interweave local prejudices and State distinctions in the very Constitution which is meant to cure them. He mentioned instances of violent disputes raised in Maryland concerning the term 'residence.'

"Mr. Elsworth thought seven years of residence was by far too long a term: but that some fixt term of previous residence would be proper. He thought one year would be sufficient, but seemed to have no objection to three years.

"Mr. Dickinson proposed that it should read 'inhabitant actually resident for — year.' This would render the meaning less indeterminate.

"Mr. WILSON. If a short term should be inserted in the blank, so strict an expression might be construed to exclude the members of the Legislature, who could not be said to be actual residents in their States whilst at the Seat of the General Government.

"Mr. MERCER. It would certainly exclude men, who had once been inhabitants, and returning from residence elsewhere to resettle in their original State; although a want of the necessary knowledge could not in such case be presumed.

"Mr. Mason thought 7 years too long, but would never agree to part with the principle. It is a valuable principle. He thought it a defect in the plan that the Representatives would be too few to bring with them all the local knowledge necessary. If residence be not required, rich men of neighbouring States, may employ with success the means of corruption in some particular district and thereby get into the public Councils after having failed in their own State. This is the practice in the boroughs of England.

"On the question for postponing in order to consider Mr. Dickinsons motion:

"New Hampshire, no. Massachusetts, no. Connecticut, no. New Jersey, no. Pennsylvania, no. Delaware, no. Maryland, ay. Virginia, no. North Carolina, no. South Carolina, ay. Georgia, ay.

"On the question for inserting 'inhabitant' in place of 'resident'—agreed to nem. con.

"Mr. Elsworth & Col. Mason moved to insert 'one year' for previous inhabitancy.

"Mr. Williamson liked the Report as it stood. He thought 'resident' a good enough term. He was against requiring any period of previous residence. New residents if elected will be most zealous to conform to the will of their constituents, as their conduct will be watched with a more jealous eye.

"Mr. Butler and Mr. Rutledge moved 'three years' instead of 'one year' for previous inhabitancy.

"On the question for 3 years:

"New Hampshire, no. Massachusetts, no. Connecticut, no. New Jersey, ay. Pennsylvania, no. Delaware, no. Maryland, no. Virginia, no. North Carolina, ay. South Carolina, ay. Georgia, ay.

"On the question for '1 year':

"New Hampshire, no. Massachusetts, no. Connecticut, no. New Jersey, ay. Pennsylvania, no. Delaware, no. Maryland, divided. Virginia, no. North Carolina, ay. South Carolina, ay. Georgia, ay."

It is evident that in this debate the framers of the Constitution were seeking for a nontechnical word, the main purpose of which would be to insure that the Representative, when chosen, from a particular State should have adequate knowledge of its local affairs and conditions. Mr. Madison, Mr. Wilson, and Mr. Mercer all emphasized that it was not desired to exclude men who had once been inhabitants of a State and who were returning to resettle in their original State, or men who were absent for considerable periods on public or private business. The convention by vote deliberately declined to fix any time limit during which inhabitancy must persist. To get clearly in mind the thought which the word "inhabitant" held in the minds of the framers of the Constitution, it is well to recall that in the days of the Colonies the people who constituted the body politic of a colony were quite generally described in the charters and other public documents connected with the governments of the Colonies as being "subjects" of Great Britain and "inhabitants" of the colony in which they were members of the body politic.

A number of examples of this are recited in the volume of law arguments taken in the hearings before this committee, beginning on page 38. To these men an "inhabitant" was one who had an abode within a colony and was recognized and identified as one who was a member of the body politic thereof. The fact that he might absent himself physically from the colony for a very considerable period of time did not militate against the recognition of him as an inhabitant of such a colony, and this remained true after the colonies had achieved their independence and had become independent States. Thus, though George Washington was for the greater part of 16 years absent from Mount Vernon and Benjamin Franklin was absent for years from Pennsylvania, no one would have considered there was any cloud on their title as inhabitants, respectively, of the States of Virginia and Pennsylvania. In those early times it was the uncommon rather than the common thing that a man should have more than one place of abode. In these modern times it is quite common that men have two or more places of abode to which they may repair according to the season of the year, according to their business convenience, or according to the public duties which they may be called upon to discharge. This is true of many Members of each House of the Congress to-day, but the principle has not changed. Admittedly a man can have but one inhabitancy within the meaning of the Constitution at a given time. Where this may be is a mixed question of intent and of fact.

To be an inhabitant within the Constitution, it seems clear that one must have, first, as a matter of fact, a place of abode, and second, that this place of abode be intended by him as his headquarters; the place where his civic duties and responsibilities center; the place from which he will exercise his civic rights. We think that a fair reading of the debate on this paragraph of the Constitution discloses that it was not intended that the word "inhabitant" should be regarded in a captious, technical sense. Can it be that the fathers intended that to determine whether one was an inhabitant of a par-

particular place that the number of days which he actually spent there in a given period should be counted and his absences balanced against the periods of his physical presence? Can it be that the fathers intended that the tenure of his holding of a particular abode, whether it be by fee-simple title or by leasehold, should govern the question as to whether it was the place of inhabitancy? We feel positive that such a construction would in no sense carry out the meaning which the framers of the Constitution regarded as contained in this word. Further, such a technical attempt at construction would result in the very confusion which the debate showed the framers hoped to avoid by the rejection of the word "resident." We think that a fair interpretation of the letter and the spirit of this paragraph with respect to the word "inhabitant" is that the framers intended that for a person to bring himself within the scope of its meaning he must have and occupy a place of abode within the particular State in which he claims inhabitancy, and that he must have openly and avowedly by act and by word subjected himself to the duties and responsibilities of a member of the body politic of that particular State.

That Mr. BECK has such an abode in the State of Pennsylvania can not be questioned. That he had obtained it a year and a half before his election to Congress is unquestioned. That he had occupied it according to his convenience one or more times a week during that period was testified to by Mr. BECK, and certainly was not disproved by any other evidence. It is true that during a part of the period under discussion he was absent from the country, but then he was absent on business connected with the city of Philadelphia, and certainly such absence ought not to be counted against his being an inhabitant, the absence being on public business connected with the very city in which he claims to be an inhabitant. It is true, too, that he spent a short portion of time in the summer at his place at Sea Bright, N. J., but it will be an unusual conclusion if it is held that for a man to absent himself from the place of his inhabitancy in order to live for a time at his summer place raises a cloud upon the legal continuance of his inhabitancy. So much for the fact as to a place of abode in Pennsylvania.

As to Mr. BECK's intention, let it be said that he testified before the committee, fully and frankly, as to all the circumstances and facts which were asked of him; as fully and frankly disclosing those facts which seemed, possibly, to militate against him as to any. He solemnly testified under oath before the committee that when he went to New York to live in 1903 he then had the intention some time to return to Philadelphia, his native city, and resume his citizenship in that city and reidentify himself with its affairs. Hence, he kept his memberships in all the civic associations in which he had acquired membership before his leaving. He testified that this had always been his intention during all of the time he was away from Philadelphia.

He testified that when he left New York in 1920 and came to Washington to take up the duties of Solicitor General of the United States that he had acquired a competence, and that it was his intention, if found acceptable to the public, to devote the remainder of his life to public service; and that when his duties were ended as Solicitor General he began negotiating for a place in Philadelphia so that he might carry out the intention he had held all those years to return and reidentify himself with Philadelphia and with its public affairs. He testified that at that time he entertained the hope that it might occur that he could have a seat in Congress from that city.

In carrying out his desire to give himself to the public service of that city, he gave very much of his time to the Sesquicentennial Exposition, accepting a commission from the mayor of the city and from the President of the United States to a high position connected with that exposition, that he traveled abroad to foreign countries to engage their interest and cooperation in making the exposition a success, giving his time and efforts thereto without any remuneration.

He solemnly testified under oath that since June 1, 1926, his intention has been to be a resident of the State of Pennsylvania and in the constitutional sense to be an inhabitant of that State, and to subject himself to all the duties as well as to enjoy the privileges of that status.

There is no testimony and no fact which would warrant the committee in making a finding that this statement is not entirely true.

Further than this, Mr. BECK is now and was at the time of his election a "legal resident" of Pennsylvania. We do not think that this can be disputed. He had a habitation there and at the expiration of more than the required time under the constitution of Pennsylvania he presented himself for registration, asserted his intention to be a resident of Pennsylvania, and was registered as a voter. By that act he subjected himself conclusively to all the duties of a resident of Pennsylvania. Thereupon he became subject, among other things, to personal taxation within the State of Pennsylvania, subject to jury duty there, and, if he died, conclusively subject to the inheritance tax laws of that State. In other words, he subjected himself to all the duties that fall upon a resident of that State and could not be heard to claim that he was not a resident there.

Mr. BECK is a "citizen" of Pennsylvania. We do not think this can be disputed. Born in that State, after having left it, he has

returned and maintained a legal residence more than sufficiently long to satisfy the constitutional provision of that State as to citizenship therein.

Mr. BECK is a legal elector in the State of Pennsylvania. We do not think this can be disputed. Having maintained a legal residence in that State more than sufficiently long to qualify him for the electoral privileges, he attended to the formalities thereof, paid the poll tax required, offered himself to the registration board for registration, was registered as a voter without challenge, and thereafter and before his election performed the privilege of voting in an election without challenge.

We do not think that the framers of the Constitution intended by the use of the word "inhabitant" that the anomalous situation might ever arise that a man should be a citizen, a legal resident, and a voter within a given State and yet be constitutionally an inhabitant elsewhere. If any such conclusion could be reached we might have the peculiar result in this country of a man being a resident, a citizen, and a voter in a given State, and yet within the constitutional sense barred from the right of representing a district in that State in Congress, but having the right to represent a district in another State in Congress. No such interpretation can fairly be read into this provision. We think that Mr. BECK, having legally subjected himself to the duties and responsibilities of a citizen and an inhabitant of Pennsylvania, having maintained a habitation there, and having occupied the same regularly, though not continuously, is also entitled to the rights of a citizen and an inhabitant of Pennsylvania. We think that such a finding is entirely within the meaning, the spirit, and the letter of the Constitution.

#### THE PRECEDENTS

We think that a proper interpretation of the facts in the early case of Philip B. Key in the Tenth Congress would be controlling in the present case. Mr. Key was a native of Maryland and a citizen and resident of that State at the time of the adoption of the Constitution. He was never a citizen or resident of any other of the United States. But in 1801 he removed from Maryland to his house in Georgetown, D. C., where he continued to reside until 1806. During that period he had no other habitation. In 1805, however, he had purchased land in Maryland and had contracted for the erection of a summer home thereon, intended for his own use. On September 18, 1806, he removed with his family into this summer home, which was not yet entirely completed. On October 6, 1806, just 18 days later, an election occurred in which Mr. Key was elected to a seat in the House of Representatives. He had left his house in Georgetown, D. C., fully furnished. On October 20, 1806, he removed with his family and household to his house in the District of Columbia again, where he lived until July, 1807, in which month he returned to his Maryland house and lived in it until October 23, 1807. On this latter date he returned to his house in the District of Columbia to attend to his duties in Congress. During the five years that he had no habitation in Maryland and during which his sole habitation was in the District of Columbia he continued to practice law in Maryland and had not practiced in the District of Columbia. But he had in January, February, and March, 1806, declared that he intended to reside in Maryland and that he bought the land with that intention. It was admitted that the House which he built in Maryland and which he occupied only 18 days before the election was fitted only for a summer residence and was much inferior to the house in the District of Columbia, and that the latter was left practically with its furnishing complete whenever the family went to Maryland. This case will be found reported on page 417 of the first volume of Hinds' Precedents.

In the argument before the committee an attempt was made to distinguish this case from the Beck case in two particulars: First, that Mr. Key when he left Maryland did not establish a residence in any other State but only in the District of Columbia, while Mr. BECK, when he left Pennsylvania, established a residence first in New York and later in the District of Columbia. We are unable to see that this creates any distinction between the two cases as a matter of legal contemplation. Mr. Key utterly ceased to be an inhabitant of Maryland in 1801. Mr. BECK as fully ceased to be an inhabitant of Pennsylvania in 1903. We fail to see wherein any distinction as a matter of law can arise on the question of inhabitancy due to the fact that one moved into the District of Columbia and the other moved into the State of New York. In each case the habitation in the native State completely ceased. In both cases, if it were revived, the revival occurred by proceeding from the District of Columbia back to the native State. In the case of Mr. Key the new inhabitancy of the State of Maryland existed for 18 days prior to the election. In the case of Mr. BECK it existed for a year and a half prior to the election.

The other point of distinction that was attempted to be raised to void the effect of the Key case on the present issue in the argument was that in the Key case Mr. Key owned outright the house in Maryland to which he moved 18 days prior to his election, while Mr. BECK's is a leasehold. We can not conceive that there is any merit in this attempted distinction. It is as common in this country for a man's habitation to be held by lease as it is by free ownership. It is

the intent under which he occupies it which is the controlling feature. The House of Representatives held that Mr. Key was, within the constitutional sense, an inhabitant of Maryland and entitled to his seat in the House of Representatives.

A case which was relied upon in the argument to uphold the exclusion of Mr. BECK from his seat was the case of John Bailey, elected from Massachusetts to the Eighteenth Congress, reported on page 419 of the first volume of Hinds' Precedents. The facts in that case were as follows:

On October 1, 1817, Mr. Bailey, who was then a resident of Massachusetts, was appointed a clerk in the Department of State. He immediately repaired to Washington and entered upon the duties of his position and continued to hold the position and reside in Washington until October 21, 1823, when he resigned the appointment. It did not appear that he exercised any of the rights of citizenship in the District, and there was evidence to show that he considered Massachusetts as his home, and his residence in Washington only temporary. It was shown that Mr. Bailey resided in Washington in a public hotel with occasional absences on visits to Massachusetts until his marriage in Washington, at which time he took up his residence with his wife's mother. He never exercised the right of suffrage in Massachusetts after leaving there for Washington.

The election at which Mr. Bailey was chosen as a Representative was held September 8, 1823, at which time he was actually residing in Washington in his capacity as clerk in the State Department. This case was debated in the House for seven days, and, of course, many things were said, but the facts in it are what seem important in its use as a precedent. Mr. Bailey had no abode in Massachusetts. Before he came to Washington he lived with his parents in their house. He had none of his own, either leased or owned. In support of the committee it was stated "had he left a dwelling house in Massachusetts in which his family resided a part of the year; had he left there any of the insignia of a household establishment, there would be indication that his domicile in Massachusetts had not been abandoned."

We think that the Bailey case is clearly distinguishable from the Beck case in that Mr. Bailey had no habitation, no place of abode, under his control in Massachusetts at any time after he accepted the appointment in Washington. The very report of the committee in the Bailey case shows that had he maintained any place of abode or insignia of domestic establishment to which he had repaired from time to time, the holding of the committee would have been otherwise.

No doubt it would do violence to words to hold that a man was an inhabitant of a place where he had no habitation. The House of Representatives held that Mr. Bailey was not entitled to his seat.

The case of Nathan B. Scott, elected a Senator from the State of West Virginia in 1899, was contested on the ground that he was not an inhabitant of the State of West Virginia at the time he was elected. Mr. Scott resided at Wheeling, W. Va., until January 1, 1898, when he was appointed Commissioner of Internal Revenue, at which time he came to Washington to discharge the duties of that office. His intention was to retain his residence and habitation at Wheeling, W. Va., and in carrying out that intention he voted in the election held November 8, 1898, at Wheeling, W. Va. He had no intention to change his domicile to Washington from Wheeling and he claimed to be an inhabitant of Wheeling, W. Va. The committee found that Mr. Scott was an inhabitant of Wheeling, W. Va., at the time he was elected to the Senate of the United States.

In the Bailey case, Mr. Bailey did not exercise the rights of citizenship in the State of Massachusetts, nor did he vote in the State of Massachusetts. In the Scott case, Senator Scott did, and the Senate found that he was an inhabitant of the State of West Virginia.

The committee desires to direct attention to the language in the decision of the Supreme Court of the United States in the case of *Shelton v. Tiffin* (6 Howard, 163, 185). The Federal courts had no jurisdiction in this controversy, unless within the meaning of section 2 of Article III of the Constitution of the United States, the parties thereto were citizens of different States. Hence, this question being raised, its solution was necessary to the decision of the court. In this case, the Supreme Court uses the following language:

"On a change of domicile from one State to another, citizenship may depend upon the intention of the individual. But this intention may be shown more satisfactorily by acts than declarations. An exercise of the right of suffrage is conclusive on the subject; but acquiring a right of suffrage, accompanied by acts which show a permanent location, unexplained, may be sufficient."

It is true that a holding of even the Supreme Court of the United States is not binding on the House of Representatives in the question at bar, since this question is committed by the Constitution solely to the House of Representatives, but we think the opinion of the Supreme Court of the United States ought to be regarded with the highest respect and should be very persuasive in deciding a similar question. It will be remembered in this connection that Mr. Beck

registered as a voter and exercised the right of suffrage in Philadelphia in the month of September, prior to the November in which he was elected to Congress.

It is true that in the many court decisions that have been rendered in various courts of the States, under different legal situations, many contradictory definitions of the words "inhabitant" and "resident" may be found. We are impressed, however, with the conviction that the framers of the Constitution were seeking to use the word "inhabitant" in the plain, nontechnical sense in which it had been understood as explained above up to the time of the framing of the Constitution, and that their purpose was to require those who represented the several States in the House of Representatives to be identified with the local interests of those States by having a habitation therein and being in addition a member of the body politic of the particular State from whence they came to the House.

It was argued before the committee that such a construction would lead to the existence of "rotten boroughs" in the United States as once existed in England. We think this argument misapprehends what the "rotten boroughs" were. It will be remembered that the "rotten boroughs" consisted of small communities with few inhabitants, which were given representation in Parliament out of all proportion to the population of other areas and large centers. In other words, the "rotten boroughs" situation in England resulted in insufficient representation for large bodies of the population as compared to many small communities. We call attention to the fact that if a man, because he has business in the District of Columbia and arranges a place of abode there so that he may conveniently care for such business when necessity occasions it, whether it be public or private, is to be denied for that reason the right to have a habitation within one of the States, to acquire citizenship there, to be an elector there, to take his part in exercising the duties and responsibilities of citizenship, it will result in a much closer approximation to the "rotten borough" situation which has been described and condemned.

After all, we must rely upon the integrity, the patriotism, and the good common sense of the electors in the various districts with respect to the choice of a fit membership in the House of Representatives. This is a part of the very genius of representative government. And we do not think that it is proper to seek for strained and captious interpretations of this paragraph of the Constitution to find reasons for rejecting men who have been chosen through the deliberate will of their constituents as indicated at the polls. We believe that every word of the Constitution should be upheld, but we do not think that men who have been chosen to represent a district should be excluded unless their case presents a clear violation of the constitutional provision. We are convinced that such is not the case in the matter now before us. We believe that Mr. BECK is clearly entitled to his seat.

For the above reasons, the committee recommends the adoption of the following resolution:

"Resolved, That JAMES M. BECK is entitled to his seat in the Seventieth Congress as a Member of the House of Representatives from the first congressional district of the State of Pennsylvania."

#### MINORITY VIEWS

##### JAMES M. BECK CONTESTED-ELECTION CASE

We, the minority, regret to find ourselves in disagreement with a majority of the committee who report that Mr. JAMES M. BECK is entitled to a seat in the House of Representatives from the first Pennsylvania district. If the question involved were not one of vast importance, in our opinion, we would not interpose our opposition; for there could be no personal objection to Mr. BECK as a Member. Neither is there any political significance that could attach to the challenge of his right to sit, as anyone from that district at this time undoubtedly would be of his political faith. And we recognize fully that the renown of Mr. BECK as a constitutional lawyer and a man of high intellectual attainments necessarily is persuasive with the committee.

But the issue is one which goes to the vitals of the National Constitution. Mr. BECK in his opening statement expressly recognized that the question is not free from difficulty. The question arises as to his qualification under Article I, section 2, of the Constitution, wherein it says:

"No person shall be a Representative who shall not have attained to the age of 25 years, and been 7 years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State in which he shall be chosen."

Our conviction is that he was not an inhabitant of the State of Pennsylvania in November, 1927, when chosen.

Mr. BECK was born in Philadelphia July 9, 1861, and had his home in that State until 1900, when he came to Washington, D. C., as Assistant Attorney General. In 1903 he resigned his position in Washington, gave up his residence in Philadelphia, and moved to New York to practice law with a view to securing a competence. He owned one or more homes in New York where he lived and voted and practiced law until November, 1920. At that time he sold his New York home and purchased a commodious residence on Twenty-first Street NW.,

Washington, D. C., to which he immediately moved his family, his extensive personal library, his art treasures, and all his personal belongings he holds most dear.

In June, 1921, Mr. BECK was appointed Solicitor General of the United States by President Harding, and held that position until June, 1925, when he resigned on account of his eyes failing. He immediately established a law office in the Southern Building, Washington, and specialized in United States Supreme Court practice, which law office he still maintains. He also resumed his connection with his old law firm in New York. He does not practice law in Pennsylvania, and has not since 1900.

For several years he has owned and used a summer home in Sea Bright, N. J., on the ocean front. After moving from New York in 1920 he established a voting status at his summer home and he and his wife voted there in the 1924 presidential election by mail. In November, 1927, when chosen he sustained the same relation as to voting status in New Jersey which he did in 1924 and does at the present time, except expressing an intention, which was not carried out, to transfer it to Pennsylvania. His residential connection there is exactly the same, having used that residence for himself and family the last summer months. So far as the New Jersey authorities are concerned, no act of Mr. BECK has shown withdrawal of claims for voting privileges in that State.

In the early spring of 1926 he went to Philadelphia, and with Mr. Greenfield, a real-estate man who is also prominent politically, looked at some two or three apartments in the first congressional district with a view to retaining one for the specific purpose of running for Congress from that district. Mr. BECK states that he had two purposes in view by this. One was to again establish a status in Philadelphia as one of its people. The other was to run for Congress from that district. As to the latter purpose he said:

"The seat in Congress was then a possibility undoubtedly, and I would not want to say, and could not say truthfully, that it had nothing to do with the renting of the apartment." (Rec. p. 58.)

Again he states:

"The apartment was selected in full anticipation of the fact that I might run for Congress. My point is that my taking any habitation in Philadelphia had as its dominant purpose the desire to be reidentified with the political life of Philadelphia, quite irrespective of whether I ran for Congress or not. But the selection of this locality had in mind the possibility of my going to Congress; and it also had in mind that it was very accessible to the main thoroughfare of Philadelphia, and right around the corner from my club." (Rec. p. 61.)

Mr. VARE, the then sitting Member from the first Pennsylvania district, was at that time a candidate for nomination to the United States Senate.

But no apartment was then agreed on, and Mr. BECK went to Europe on a business mission in April, 1926. He returned early in June. On the 6th of July following it seemed that Mr. Greenfield had put in order a 2-room apartment at 1414 Spruce Street, and Mr. BECK then leased it as of date June 1, 1926. This was a yearly renewable lease, unless either party exercised the option of giving a legal notice of its termination. The apartment was then furnished by Mr. BECK, and he still holds it and pays rent on it.

His unmarried sister, Miss Helen Beck, has occupied this apartment continuously for a year; and while she is in it he goes to the Art Club to sleep when in Philadelphia rather than incommode her. The apartment is equipped with a kitchenette, but Mr. BECK has never eaten a meal there. It has one bedroom.

Mr. BECK states that he is in Philadelphia most every week; that he frequently goes to New York on business, and stops over there to break the trip. He was carried as a nonresident member of several clubs in Philadelphia at the time of election and until January last. In none of them was he listed as a resident member.

The janitor of this apartment house, who admits he is entirely unreliable, when approached on the premises, and without notice of the purpose of the inquiry, first said he had only seen Mr. BECK there three times in the 18 months. When placed on the stand he finally estimated that he had known of him being there fifteen or twenty times.

On page 66 of the record, Mr. BECK gives the status of his family as follows:

"Mr. KENT. Now, your family consists of whom?

"Mr. BECK. My wife and myself. I have two children.

"Mr. KENT. Where are they?

"Mr. BECK. My daughter is the wife of the United States consul at Geneva; my son has been in London ever since he was in the Army in France. But neither of my children live with Mrs. Beck and myself. We live alone."

And there can be no question but that Mr. BECK and his wife "live alone" in Washington, D. C., and have lived here since November, 1920, have had this as their domicile, their abode, their habitation. Mr. BECK always registers from Washington when he goes to hotels, has his merchandise for personal comfort sent to him here, has his automobiles for every use registered here; and at no time has he treated the small two-room apartment in Philadelphia as a real, bona fide habitation for

any purpose except a gesture at compliance with the constitutional requirement for an inhabitant.

So his claim to inhabitancy is based on the rental of this apartment, which is in reality a place for his unmarried sister to live, with occasional visits to the city of Philadelphia by him when he would stop largely at the Art Club or a hotel; his testimony of intent to return; that he transacts his private affairs in Pennsylvania; and that he attempted to qualify and did vote there in a primary in that State in 1927.

We can not ascribe to the doctrine that intention is the controlling part of inhabitancy. Mr. BECK quotes approvingly a letter relating to his speech in Philadelphia, on April 30, 1925, to the effect that he was "then in a position to take a permanent home again in Philadelphia, where, among your old friends and your books, you would indulge yourself for the balance of your life." Of this Mr. BECK said, "that is just what I said in substance." It would be a strange perversion of every rule to accept even undisputed intentions, shown by declarations, in the face of a state of facts, such as we have in this case, to prove inhabitancy. In truth, Mr. BECK never took a permanent home again in Philadelphia. Had he done so, and moved his family and his books and household there before election, as his expressed intention was, no question would now be made as to his eligibility. Intention, in a case of this kind, is a deduction or conclusion of law founded on fact. We must determine from the facts whether inhabitancy exists. It certainly can not be shifted or designated at the whim or pleasure of the individual affected.

Granting that he had the intention to return, this was outweighed by his desire to inhabit Washington, to practice law here, to have advantage of proximity to the United States Supreme Court, to all Federal activities, to retain all his books, works of art, home, servants, automobiles, mental endeavors, entirely without the borders of the State of Pennsylvania.

As to the transaction of his private affairs in Pennsylvania, it is a fair inference from the proof that he has \$20,000 in securities or some other form of property in that State, as he submitted to an assessment in that sum. But he pays taxes in New Jersey on both real and personal property, pays his income tax from Washington, as well as a realty tax here, no doubt on more property value than that for which he is assessed in Pennsylvania. We can find no burdens of citizenship carried by Mr. BECK in that State which he does not bear both in New Jersey and the District of Columbia, except 25 cents paid in September last for an occupational tax.

It is contended that a mere political status meets this requirement of the Constitution. If a political status could be counted the sole qualification for holding this office under the Federal Constitution, a citizen just naturalized and having acquired a voting privilege in his State could sit in Congress, although the Constitution says he must have "been seven years a citizen of the United States"; and likewise, if the citizen is 21 years of age and can vote in his State he could come to Congress in the face of the constitutional provision that "no person shall be a Representative who shall not have attained the age of 25 years." The burdens of citizenship are definitely placed on these two classes who are forbidden to hold a seat in Congress, even though their constituents should choose them unanimously. There is no more discrimination against one who has met the requirements for voting in a State, but who is not an inhabitant of that State within the meaning of our National Constitution, than there is against these others so limited in this privilege.

A mere voting privilege is granted by each separate State in its own way. If a voter can satisfy the requirements of a State law, he can exercise the privilege of franchise. But compliance with the requirements of the Federal Constitution in qualifying for membership in this House is entirely independent of State regulation. A voting status can not be the measure of inhabitancy. If it had been thus intended, the Federal Constitution would have remained silent and thereby left the matter to the separate States. This would amount to the same thing as expressly telling each of the States to fix this qualification, when they would leave that right in the absence of any expression by the Federal Constitution.

One of the conclusive reasons that they regarded a "citizen" and an "inhabitant" as entirely different designations is that they used both in this same clause, this same sentence, for separate and distinct qualifications for membership. No trivial matter of verbiage or curious distinction is necessary to a sensible meaning of this term as used by great men.

The word was substituted for "resident," and the reason clearly given by the great Madison was to allow a temporary absence from a true domicile, not to place it on a casual presence in a temporary domicile.

Mr. BECK was not a qualified elector of the State of Pennsylvania at the time he voted in the primary of September, 1927, nor at the time of his election to Congress. The constitution of that State requires that an elector must be a "resident" of the State for 6 months next before voting in his case, and 12 months for one who has never before been a citizen of Pennsylvania. And the courts of that State have repeatedly and uniformly held, as in Fry's election case (71 Pa. 302, p. 305):

"When the constitution declares that the elector must be a resident of the State for one year it refers beyond question to the State as his home or domicile, and not as the place of a temporary sojourn." \* \* \*

"Those extracts will enable us to understand more clearly the term 'residence,' as denoting that home or domicile which the third article of the constitution applies to the freeman of the Commonwealth. It means that place where the elector makes his permanent or true home, his principal place of business, and his family residence, if he have one; where he intends to remain indefinitely; and without a present intention to depart; when he leaves it he intends to return to it, and after his return he deems himself at home."

It can not be reasonably contended that Mr. Beck had his home or domicile in Pennsylvania at that time. It was here in Washington, where it has been since November, 1920, the place where he has his family life, where he comes when he is sick, his true home, the only establishment he has had which resembles a home or permanent domicile, where he keeps his five servants, two automobiles, and the only place he keeps these or any other semblances of home life to comport with his accustomed comfort.

In addition to this, he did not procure his occupational tax receipt on the 9th of September, 1927, legally. This is not meant in the sense of imputing bad faith to Mr. Beck, but the law requires specifically that this must be purchased from the office of the receiver of taxes in person or from a deputy at the place of registration on any of the registration days provided by law; and the only exception to this is when a written and signed order is given by the elector to a person to purchase same for him. This was not done. The receipt was delivered to Mr. Beck in the office of Mr. VABE, not on registration day, not at the place of registration, not in the office of the receiver of taxes, and after being procured by some person with no written authority to purchase same. It is expressly made unlawful in Pennsylvania for any person to vote or attempt to vote upon a tax receipt so obtained in violation of this law. It appears from the testimony by Harry W. Keely, receiver of taxes for the city of Philadelphia, Mr. Beck, and others, that this receipt was not issued in accordance with law and could not be used lawfully. It was only 11 days old when used by him, whereas the law directs that it must have been purchased 30 days before the election in which it is used. But the disqualification for voting which is in no way technical is that of failure to comply with the requirements of a "resident," since his real home, his actual established home, is elsewhere than in Pennsylvania, where at best he only has a place of temporary sojourn.

But if Mr. Beck had been qualified and had legally voted in all Pennsylvania elections, this would in no way be conclusive of inhabitancy. In the Virginia case of *Bayley v. Barbour* (47th Cong., Hinds, vol. 1, p. 425) the House held as follows:

"In answer to this position, without deeming it necessary upon the facts of this case to enter into the constitutional signification of inhabitancy, it is only necessary to say that the right to vote is not an essential of inhabitancy within the meaning of the Constitution, which is apparent from an inspection of the Constitution itself. In Article I, section 2, the electors of Members of Congress 'shall have the qualifications requisite for electors of the most numerous branch of the State legislature,' but in the succeeding section, providing for the qualifications of Members of Congress, it is provided that he shall be an inhabitant of the State in which he is chosen. It is reasonable to conclude that if the elective franchise was an essential the word 'elector' would have been used in both sections, and that it is not used is conclusive that it was not so intended."

And if a voting status "is not an essential of inhabitancy within the meaning of the Constitution," but is vitally essential to citizenship or a political status, it would be sophistry indeed to hold them synonymous.

The term "inhabitant" has never been defined by the courts in connection with this clause of the Constitution, as the House is the sole judge of the qualifications of its Members, so we must look elsewhere for an authentic definition. The intent of the framers should govern if that can be ascertained, and we insist it is very patent from the only definite construction of the word which has ever been in common usage. There has been no marked change in the commonly accepted meaning of the term since 1787, when the Constitution was framed.

Webster's New International Dictionary says of "inhabitant":

"One who dwells or resides permanently in a place, as distinguished from a transient lodger or visitor."

"It ordinarily implies more fixity of abode than resident."

"Inhabitant, the general term, implies permanent abode; citizen, enjoyment of the full rights and privileges of allegiance."

Entick Dictionary, London, 1786, gives the following:

"Inhabitant, one who dwells in a place."

Dr. Samuel Johnson's Dictionary, 1770, gives the following:

"Inhabitant, dweller; one who lives or resides in a place."

Ash's Dictionary, 1775, gives the following:

"Inhabitant: A dweller, one that resides in a place."

Dyche's English Dictionary, 1794, gives the following:

"Inhabitant: One who lives in a place or house, a dweller."

Law dictionaries contemporaneous with the framing of the Constitution do not vary from this. A new Law Dictionary, by Giles Jacob, ninth edition, published in London, 1772, gives the following:

"Inhabitant: Is a dweller or householder in any place."

Doctor Burn's Law Dictionary, published in London, 1792, Vol. II, page 21:

"The word 'inhabitant' doth not extend to lodgers, servants, or the like; but to householders only."

Burrill's Law Dictionary says:

"The Latin *Habitara*, the root of this word, imparts by its very construction frequency, constancy, permanency, closeness of connection, attachment, both physical and moral; and the word 'in' serves to give additional force to these senses."

Black's Law Dictionary:

"Inhabitant: One who resides actually and permanently in a given place, and has his domicile there."

In Book I, chapter 19, section 213, Vattel says:

"The term 'inhabitant' is derived from abode and habitation, and not from political privileges."

We think the test of inhabitancy is a permanent and fixed abode with the personal presence of the individual in that place, ordinarily; and absence from it must be for a cause temporary in its nature, with the intent to return to said place of abode to reside as soon as the purpose of the said absent mission is accomplished. The absent mission may be in its nature for pleasure, business, or public duty. When said absence is for the purpose of engaging in a business or occupation which calls for the establishment of a home and indeterminate presence therein pursuant to said activity, we consider the former inhabitancy broken, or suspended at least until it again takes on the degree of permanency it formerly had. The overwhelming weight of authority, both as to legal construction and definition, support this view.

Every recognized authority, whether legal or otherwise, excludes the idea of temporary residence, and holds that the term "inhabitant" carries with it the necessity of a fixed and permanent home, the place at which one is habitually present under ordinary circumstances, and to which, when he departs for temporary purposes, he intends to return. This is the common and only justified construction of the word.

The constitution of New Hampshire, adopted in 1792, shows clearly what the common acceptance and meaning of this term was in the following declaration:

"And every person qualified as this constitution provides, shall be considered an inhabitant, for the purpose of electing and being elected into any office or placed within this State, in the town, parish, and plantation where he dwelleth or hath his home."

The constitution of Massachusetts, adopted in 1780, Chapter I, section 2, article 2, declares that—

"to remove all doubts concerning the word 'inhabitant,' in this constitution, every person shall be considered an inhabitant (for the purpose of electing and being elected into any office or place within this State) in that town, district, or plantation, where he dwelleth or hath his home."

This constitution was amended in 1821 to confer the right to vote on citizens who have resided in the State one year, and in the town or district six months. In 46 Mass. (5 Metc.) 587, 588, it was held that "inhabitant" as used in the original constitution is identical in meaning and synonymous with "citizen who has resided," as expressed in the amendment. These provisions and construction are the best possible means of determining the exact use made of the term at that time. Some of the men who were in the National Constitutional Convention were members of the State conventions that placed in the documents themselves this definition of "inhabitant."

On the 8th of August, 1787, in the Constitutional Convention, the committee of detail struck out of the text at this place the word "resident" and substituted the word "inhabitant." The motion was made by Mr. Sherman and seconded by Mr. Madison, who thought the latter less vague, and would permit absence for a considerable time on public or private business without disqualification. They were trying to get away from the abuse being made of the loose construction of "resident" by personal enemies of those who sought to qualify. There is no suggestion of an uncommon meaning to be given the word in their use of it here. The construction placed on these statements of Mr. Madison and others by Mr. Beck is to apply it to his case wherein he was absent from Pennsylvania 23 years, under his own admission, and yet he would not be disqualified on the grounds of inhabitancy. (Rec. p. 15.) And this regardless of the fact that during that time he had been an inhabitant of New York, New Jersey, and the District of Columbia, and had voted in both these States, and still has his only true home in Washington. Nothing was further from the thoughts of these great men.

Mr. James Wilson preferred "inhabitant" to "resident." Statements made by him and Mr. Sherman at other stages of the debates prove conclusively that they would not countenance a provision to permit representation by one who had not had his actual habitation among his constituents for such a long time. The brilliant James

Wilson, when insisting on election of the Members of the House by the people, as shown in Formation of the Union, page 755, said:

"Mr. Wilson is of the opinion that the national legislative powers ought to flow immediately from the people so as to contain all their understanding and to be an exact transcript of their minds."

Mr. Sherman, in advocating annual election of Members of the House, said:

"Mr. Sherman thought Representatives should return home and mix with the people. By remaining at the seat of government they would acquire the habits of the place, which might differ from those of their constituents. So he preferred annual elections. (Formation of the Union, p. 256.)"

"Mr. SHERMAN. I am for one year. Our people are accustomed to annual elections. Should the Members have a longer duration of service and remain at the seat of government, they may forget their constituents and perhaps imbibe the interest of the State in which they reside, or there may be danger of catching the esprit de corps." (Formation of the Union, p. 794.)

And this from the man who moved to substitute "inhabitant" for "resident." He was unwilling that a man should stay more than a year at the seat of government before giving an account of his convictions to his people.

In placing this limitation on qualifications for membership in the House it was an attempt on their part to preserve the coloring of local State convictions, State feelings, which might be lost if men with attachments to other locations and other conditions were permitted to sit for them; that otherwise they feared attachments for State governments would be lost to the General Government, and usurpation of powers by the latter encouraged. No fear was ever better founded or more completely borne out by the present trend toward centralization.

In Story on the Constitution, Volume I, article 619, he says:

"The object of this clause, doubtless, was to secure an attachment to, and a just representation of, the interests of the State in the national councils. It was supposed that an inhabitant would feel a deeper concern and possess a more enlightened view of the various interests of his constituents than a mere stranger. And, at all events, he would generally possess more entirely their sympathy and confidence."

In Constitution of the United States, by John Randolph Tucker, Volume I, pages 394, 395, we find:

"This inhabitancy or domicile of the person in the State which chooses him was to exclude all who, by noninhabitancy, might secure an election when by reason of no community of interest, with the constituency, he would be unfitted to represent it."

There was the purpose, no doubt, as shown by the committee discussion, to guard against corruption by the wealthy who might hunt for a district to purchase. But the very foundation of representative government, to their minds, rested on their ability to insure a true reflection of local sentiment in the most numerous legislative branch. They sought to make the House a cross section of national thought, of national aspirations, of national feelings. They will that their Government should always have a common interest with the people and be administered for their good, be responsive to their will; so it was essential to their rights and liberties that the Members of the House should have an immediate instruction from and sympathy with the people. Hence the reasonableness of the provision that a person, to become a Representative, must have a bona fide and permanent abode and actually live among his future constituents. No habitual non-resident is eligible.

The leading case directly in point is that of John Bailey, of Massachusetts, decided in the Eighteenth Congress, as shown in Hinds' Precedents, Volume I, page 419.

On October 1, 1817, Mr. Bailey was appointed a clerk in the State Department from his father's home in Massachusetts, and held said position for six years. During that time he lived in Washington in hotels until a year before his election in September, 1823, at which time he married in Washington and moved into the home of his wife's mother. He had made occasional visits back to Massachusetts, had his library there, claimed his father's home as his habitation, declared his stay in Washington temporary, and that his real habitation was Massachusetts.

In the report adopted in that case Annals of Congress, volume 41, page 1594, a full discussion and interpretation of the word "inhabitant" is given. It is set forth that the word was substituted for "resident" as being a "stronger" term, intended to express more clearly their intention that the persons to be elected should be completely identified with the State in which they were to be chosen. Because of the importance of this case, we quote extensively from the report as follows:

I

"The difficulty attending the interpretation of constitutional provisions, which depend on the construction of a particular word, renders it necessary to complete explication, to obtain, if possible a knowledge of the reasons which influenced the framers of the Constitution in the

adoption and use of the word 'inhabitant' and to make an endeavor at ascertaining, as far as practicable, whether they intended it to apply, according to its common acceptance, to the persons whose abode, living, ordinary habitation, or home should be within the State in which they should be chosen, or, on the contrary, according to some uncommon or technical meaning.

II

"The true theory of the representative Government is bottomed on the principle that public opinion is to direct the legislation of the country, subject to the provisions of the Constitution, and the most effectual means of securing a due regard to the public interest, and a proper solicitude to relieve the public inconveniences, is to have the Representative selected from the bosom of that society which is composed of his constituents. A knowledge of the character of the people for whom one is called to act is truly necessary, as well as of the views which they entertain of public affairs. This can only be acquired by mingling in their company and joining in their conversations; but, above all, that reciprocity of feeling and identity of interest, so necessary to relations of this kind, and which operate as a mutual guaranty between the parties, can only exist, in their full extent, among members of the same community.

"All these reasons conspire to render it absolutely necessary that every well-regulated government should have in its constitution a provision which should embrace those advantages; and there can be no doubt it was from considerations of this kind, that that convention wisely determined to insert in the Constitution that provision which declares no person shall be a Member of either House of Congress 'who shall not at the time of the election be an inhabitant of that State in which he shall be chosen,' meaning thereby that they should be bona fide members of the State, subject to all the requisitions of its laws and entitled to all the privileges and advantages which they confer. That this subject occupied the particular attention of the convention and that the word 'inhabitant' was not introduced without due consideration and discussion is evident from the journals, by which it appears that in the draft of a constitution reported by the committee of five on the 6th of August the word 'resident' was contained, and that on the 8th of that same month the convention amended that report by striking out 'resident' and inserting 'inhabitant' as a stronger term, intended more clearly to express their intention that the persons to be elected should be completely identified with the State in which they were to be chosen. Having examined the case in connection with the probable reasons which influenced the minds of the members of the convention and led to the use of the word 'inhabitant' in the Constitution in relation to Senators and Representatives in Congress, it may not be improper, before an attempt is made at a further definition of the word, a little to consider that of citizen with the view of showing that many of the misconceptions in respect to the former have arisen from confounding it with the latter.

"The word 'inhabitant' comprehends a simple fact, locality of existence; that of 'citizen,' a combination of civil privileges, some of which may be enjoyed in any of the States in the Union. The word 'citizen' may properly be construed to mean a member of a political society; and although he might be absent for years and cease to be an inhabitant of its territory, his rights of citizenship may not be thereby forfeited, but may be resumed whenever he may choose to return; or, indeed, such of them as are not interdicted by the requisition of inhabitancy may be considered as reserved, as, for instance, in many of the States a person who by reason of absence would not be eligible to a seat in the legislature might be appointed a judge of any of their courts. The reason of this is obvious. The judges are clothed with no discretionary powers about which the public opinion is necessary to be consulted; they are not makers but expounders of the law, and the constitution and statutes of the State are the only authorities they have to consult and obey.

III

"If citizenship in one part of the Union was only to be acquired by a formal renunciation of allegiance to the State from which the person came previous to his being admitted to the rights of citizenship in the State to which he had removed, the expression of an intention to return would be of importance; but as it is it can have no bearing on the case; the doctrine is not applicable to citizens of this confederacy removing from one State and settling in another; nor can it in the present case be considered as going to establish inhabitancy in Massachusetts, when the fact is conceded that at the time of the election, and for nearly six years before, Mr. Bailey was actually an inhabitant of the city of Washington, in the District of Columbia, and by the charter of the city and the laws in force in the District was, to all intents and purposes, as much an inhabitant thereof as though he had been born and resided there during the whole period of his life, and the refusal to exercise the rights of a citizen can be of no consequence in the case. It is not the exercise of privileges that constitutes a citizen; it is being a citizen that gives the title to those privileges."

If the former action of the House is to have any weight with us now, this Bailey decision definitely disposes of the major contention that a political status is the answer to inhabitancy. Mr. Madison was then

alive and vigorous, and no doubt watched with interest every interpretation of the Constitution. Had this decision done any violence to the intention of the framers, it would have been his nature to protest. But no comment from him can be found. And no holding of the House has ever reversed or modified the principles of interpretation established in this report.

It is apparent that temporary absence from a regular habitation on private or official business does not disqualify under this clause. The same committee which reported the Bailey case, and at the same session, in the Forsyth case, so held. But the presence of Mr. BECK in his home in Washington can not stand on that exception. He purchased his home here and moved into it from a full citizenship of the State of New York some seven months before he became connected with a Government position. He remained an inhabitant of the District of Columbia from June, 1925, until July, 1926, with no official connection whatsoever, before he rented the apartment in Philadelphia. And in this connection let it be denied, as charged by him, that almost one-half the Senate and a large number of the House who have homes here are in a similar position to his.

The Members of Congress referred to, when elected, were bona fide inhabitants of their respective States. Any home established here for their use is incident to the discharge of public duty, temporary, and does not destroy the status of inhabitancy they had when elected. He seeks to reverse that order by having his real habitation in Washington to begin with an attempting to create a fictitious abode in the State of Pennsylvania for the purposes of qualification and not as an incident to service after election. There is no such wholesale condition of non-inhabitancy prevailing, but if such were the case the House would have all the more reason to check a flagrant violation of the Constitution.

His former residence in Pennsylvania can not enter into this consideration, for the reason that, at least for 23 years, he was completely severed and divorced from that State so far as any pretense to habitation or voting privilege or citizenship is concerned. He divested himself of every privilege of citizenship in Pennsylvania to avail himself of the superior advantages he would have in moving to New York. His claim must stand or fall on the facts developing after July, 1926. It will be observed from the record that Mr. BECK had but little to do personally with the effort to qualify him under the State law for voting. Undoubtedly he did not even familiarize himself with the legal requirements for voting. While he was in Europe and two months before he rented any apartment, he was entered on the assessment roll for a voting tax out of the regular order and of date exactly six months before the November election, the time required for returning to citizenship in that State. He never regarded this assessment enough to pay the 25-cent tax. He did not run for Congress that year because he did not get the indorsement of the Vare organization. A brother-in-law of Mr. VARE was nominated and elected.

The question then arose as to the legality of the election of Mr. VARE to the Senate and his right to a seat therein, and Mr. BECK because of counsel for him. He was assessed in the semiannual assessment for 1926 and again ignored it. Twice in 1927 Mr. BECK's name was placed on the assessors' list, once out of regular order, which assessment was again ignored by him, and Mr. VARE's office procured the only tax receipt of any kind he has purchased in that State, 25 cents each for him and Mrs. Beck, and delivered it to him in said office. He registered the next day and voted in the primary 10 days later, in which the Member of Congress from that district was nominated for a city office and immediately resigned his seat.

Thereupon the Vare organization, through Mr. VARE's secretary, notified Mr. BECK that he would be nominated for Congress at a certain time, and for him to be in waiting. He was called for at the designated time, conducted to a hall, and was formally notified of and accepted the nomination from the seven men present, who had nominated him, two of whom he states he knows. He made no canvass whatever in this district for the purpose of developing sentiment in his favor or for expressing his views on national issues.

Mr. BECK made only three speeches in Philadelphia in the city-wide campaign in November, 1927, general election, at which time he was elected, all on Friday or Saturday next before the election on Tuesday, and then left immediately for his Washington home. He did not vote in the said election the following Tuesday for the reason that he was at home and not in Pennsylvania. He had entertained anxiety that an adverse city election for the Vare ticket would be construed as a repudiation of his client, and his speeches had been made in an effort to avert this.

In a day when a political machine can select any individual it chooses to put into the House there are multiplied dangers to those the fathers knew when they made this inhibition. Without reflecting in the least on the personal desirability of Mr. BECK, it is clear that, if his contention is to prevail, an all-powerful, though it be an unscrupulous, combine in control of a district machine can select anyone they need for any special purpose, and the House would be powerless to resist it. All that would be required of their choice would be to establish what can be termed a technical, constructive, fictitious, superficial, fly-by-night residence and then go a-carpetbagging. This presages

a radical and serious departure from the fundamentals of representative government as we know it.

This is not a case of simply thwarting the will of a constituency. We consider that any constituency should have the right of choice, but that choice must be within constitutional bounds. Our charter of liberties, the Constitution, should stand above the aspirations of an individual who would subvert it or the action of constituencies who ignore it. If Mr. BECK is to retain his seat we view the precedent, not as a part of the general "erosion" of the Constitution, but as a frontal attack on it, a blasting process which is to weaken the foundation of the great American dream of representative government.

Respectfully submitted.

GORDON BROWNING.  
T. WEBBER WILSON.

Mr. VINCENT of Michigan. Mr. Speaker, before we proceed perhaps we had better have some understanding as to time. The rule, I understand, gives an hour of debate. The gentleman from Tennessee [Mr. BROWNING], I presume, would like an extension of that time.

Mr. BROWNING. I would desire all the time that can possibly be given for discussion.

Mr. VINCENT of Michigan. Mr. Speaker, I think it is advisable that there be longer than half an hour to a side on this matter, and I am perfectly willing and ask consent to double that time. I ask unanimous consent that debate be limited to two hours, one-half of that time to be controlled by the gentleman from Tennessee [Mr. BROWNING] and one-half by myself.

The SPEAKER. The gentleman from Michigan asks unanimous consent that the time for general debate be extended to two hours upon this resolution and substitute, one-half of that time to be controlled by himself and one-half by the gentleman from Tennessee, at the end of which time the previous question shall be considered as ordered. Is there objection?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I do it for the purpose of asking the gentleman from Michigan how this matter comes before the House at this late day. Under the rules passed some time ago the committee is required to make a report on a contested-election case within six months. In this case the committee did report within six months, and yet we are almost at the end of the Congress before the House has opportunity to pass upon it.

Mr. VINCENT of Michigan. In explanation of the delay I will say that a date was fixed for the matter, and unfortunately one of the Senators from Michigan at the last session died at that time and the delegation from Michigan attended his funeral, and later on I myself was confined to a hospital, and for that reason there was a delay in bringing this case before the House.

Mr. LAGUARDIA. It is not the purpose of the gentleman and of the Election Committee to disregard the rule?

Mr. VINCENT of Michigan. No. I can speak not only for myself but for every member of the committee when I say they desire to have these matters disposed of at the very earliest time.

The SPEAKER. Is there objection?

Mr. GARRETT of Tennessee. Would the gentleman from Michigan be willing to extend the time?

Mr. VINCENT of Michigan. I understand the program before the House to-day includes another important matter. I think that the question before us, which is a clear and narrow question, can be fully considered in two hours.

Mr. GARRETT of Tennessee. It is a question with some Members of the House whether there might not perhaps be a longer time allowed. Of course, the matter is in the gentleman's control, and we will have to accept with as much grace as we can the gentleman's suggestion.

Mr. VINCENT of Michigan. Personally I want to be perfectly fair in this matter. I think heretofore I have been quite fair, and I think I am quite fair now, in view of the other bill that is pending before the House to be disposed of to-day.

Mr. GARRETT of Tennessee. I would like to prefer the request, if I may, to make it three hours, one-half the time to be controlled by the gentleman from Michigan and one-half by the gentleman from Tennessee; one hour and a half to a side.

Mr. VINCENT of Michigan. I am sorry, but I can not yield to that suggestion.

Mr. GARRETT of Tennessee. Then I hope the gentleman will not insist on that part of his request, that the previous question be considered as ordered at the end of two hours, although I do not suppose there will be objection to the previous question.

Mr. TILSON. Mr. Speaker, I suggest that we make it two and one-half hours, and regard the previous question as ordered, the time to be equally divided.

Mr. VINCENT of Michigan. I will modify my request, Mr. Speaker, to conform to that suggestion.

The SPEAKER. The gentleman from Michigan asks unanimous consent that the time be extended to two and one-half hours, one hour and a quarter to be controlled by each side, and at the conclusion of that time the previous question shall be considered as ordered. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Michigan is recognized.

Mr. VINCENT of Michigan. Mr. Speaker, I would like to be advised when I shall have consumed 20 minutes.

The SPEAKER. Very well.

Mr. VINCENT of Michigan. Mr. Speaker and Members of the House, this matter comes before the House in a form a little different from most election contests. This matter was referred to Committee on Elections No. 2 by House Resolution 9, which raised the question whether Mr. JAMES M. BECK was entitled to a seat in this House to which he had been elected because of the question as to whether or not he was at the time of his election an inhabitant of the State of Pennsylvania, as required by the Constitution.

That is the bare and only question that is presented in this case. There is no contest except that this matter was referred to the committee for its inquiry and report. No charge of fraud or any wrongdoing of any kind is asserted against Mr. BECK or his right to a seat. The Constitution of the United States provides that no person shall be a Representative who shall not have attained the age of 25 years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he was chosen. The question before the House is whether or not Mr. BECK was an inhabitant of the State of Pennsylvania at the time he was chosen.

That question, of course, depends for its solution upon the facts presented in the case and upon the precedents which this House has established. I hope the House will give careful attention to the facts as they were developed by the committee in this inquiry. They show that Mr. Beck was born in Philadelphia, in the State of Pennsylvania, in 1861; that he was raised there; that he obtained his college education in that State; that he was called to the bar and practiced law in Philadelphia; that he held the office of assistant United States attorney in that city; that later he held the office of United States attorney in that city; that in 1900, having resided there continuously, he was appointed Assistant Attorney General of the United States. He held this office until 1903, when he resigned it. At the time he resigned the office of Assistant Attorney General of the United States he had lived continuously in Philadelphia from his birth.

He testified before the committee—and it is not controverted, except incidentally—that in 1903 he resigned the office of Assistant Attorney General of the United States and gave up his residence in Philadelphia and took up his residence in the city of New York for the practice of law. He testified that it was his purpose in going to the city of New York to practice law to gain for himself a competence, with the hope and intention then, at that time, of returning to Philadelphia to take up his residence when such a competence had been acquired. He resided in New York and practiced law there until 1920. That period was from 1903 to 1920. In 1920 he sold his home in New York City and gave up every residential connection with that city. He came to Washington and purchased a home here in Washington on Twenty-first Street, and came here and occupied that house. He came here to Washington at that time in the expectation that he would receive an appointment to the public service in the Harding administration. In 1921 he was appointed Solicitor General of the United States by President Harding.

In the interim, while he was residing in the city of New York, he purchased a summer home at Sea Bright, N. J., on the ocean. It was useful only for a summer place. He has continued to own that place up to the time of the inquiry by the committee.

In 1925 he resigned the office of Solicitor General of the United States on account of failing eyesight, and testified that he then intended to take up his residence again and reassume and reidentify his interests with the city of his birth, Philadelphia. After resigning from the office of Solicitor General of the United States he was appointed by the mayor of Philadelphia to visit foreign countries and interest them in the Sesqui-centennial Exposition to be held in Philadelphia. He did travel abroad on that commission. A little later, in 1926, he was appointed by President Coolidge as one of the commissioners of the Sesqui-centennial Exposition, the law requiring that two commissioners be appointed from each State, and Mr. Beck was appointed as one of the commissioners to the governing body of that exposition to represent thereon the State of Pennsylvania. In 1926, in addition to going abroad under this commis-

sion and continuing the work of interesting foreign nations in the Sesqui-centennial, he opened negotiations, in the spring of that year, for the acquirement of a place of abode in the city of Philadelphia. Prior to doing so he addressed one of the clubs that he had been a member of ever since his original residence in Philadelphia, stating that it was his purpose at that time to come back to Philadelphia, to reassume his citizenship thereof, and to reidentify himself with the interests of his native city.

These negotiations for an apartment in Philadelphia continued along until June, 1926. On the 6th day of July, 1926, a lease was entered into between the owner of an apartment house and Mr. BECK wherein Mr. BECK leased an apartment in the Richelieu Apartments in the city of Philadelphia, on Spruce Street, in the first congressional district thereof, for the sum of \$110 a month, for an unfurnished apartment. This lease was to run from year to year unless one party or the other gave two months' notice of its ending. That lease continued in force up until at least the conclusion of the inquiry and, as I understand it, has continued since. Mr. BECK immediately furnished that apartment in proper order as a place of abode and entered into possession of it. He has maintained it ever since that time. He testified before the committee that he had occupied that apartment in the city of Philadelphia at least twice a week ever since he had acquired it; that a large portion of the time it is occupied by his sister, who makes her place of abode there when it is not occupied by Mr. BECK himself.

Now, mind you, that was in July, 1926. During all of the period of time that Mr. BECK had been away from the city of Philadelphia, from 1903 until the occasion I speak of in 1926, as supporting his testimony that he did always intend to return to the city of Philadelphia and reidentify himself with its interests, he had maintained his membership in a number of civic organizations in that city. I might state to the House some of those organizations in which he had maintained his membership during all those years in the city of Philadelphia as having some bearing on the intention of Mr. BECK with respect to his citizenship in that city. He had continued to be a member of the Fairmount Park Art Association, which has for its purpose the progress of art and the embellishment of public places in that city. He had continued to be a member of the Philadelphia Commission, which has a somewhat similar purpose; the City Parks Association; the American Philosophical Society; the Art Club; the Legal Club; the Shakespeare Society; the Mahogany Tree Club; the Franklin Inn Club; the New England Society of Pennsylvania; the Historical Society of Pennsylvania; and some other social organizations.

Mr. BECK acquired this place of abode in Philadelphia in July, 1926. He was assessed for personal taxes in the city of Philadelphia thereafter. In 1927 he applied for registration as a voter in the city of Philadelphia, and he was registered as a voter there without challenge; he voted there in the city primaries in September, 1927. At that time he was not running for office and he was not a candidate for Congress.

The Congressman elect was Mr. Hazlett, of Philadelphia. After the primary in September, 1927, Mr. Hazlett resigned, and the properly constituted authority of the Republican Party in the first congressional district of Philadelphia nominated Mr. BECK as the candidate for Congress in the by-election which was held November 6, 1927, to contest as its candidate for a seat in this House. The Democratic Party chose as its candidate Mr. J. P. Mulrenan. At the election held November 6, 1927, Mr. BECK was elected by a majority of over 60,000.

During the period of time that he had control of and occupied this apartment in the city of Philadelphia, he continued to maintain his house in the District of Columbia on Twenty-first Street. He occupied it when it was convenient for him to do so and he occupied the apartment in Philadelphia when it was convenient for him to do so. He also has continued to own the summer property on the ocean front at Sea Bright, N. J.

When Mr. BECK left New York and came to the District of Columbia he registered and voted at Sea Bright, N. J., where his summer house was. He cast his last vote there in the presidential election of 1924 and has not done anything on his part to maintain his registration and status as a voter at that place since the election of 1924. As I stated before, after he had acquired the leasehold on the apartment in Philadelphia and had continued to hold it for the constitutional period of time as fixed by the constitution of Pennsylvania he registered and voted in the primaries in Philadelphia in 1927.

In the hearings some question was raised with respect to this registration. In my own view of the constitutional provision I think that is an immaterial matter, but I desire to point it out to the House for its consideration. The law of the State of Pennsylvania requires that, in order to register, you must have paid a tax of some kind. If you have not paid a real estate or

a personal-property tax prior to the registration you must pay a poll tax of 25 cents. The law provides that this poll tax must be paid by the individual in person to the proper official receiving taxes or that it be paid by an agent who is authorized in writing to pay it for his principal. It has been suggested in the hearings before the committee that Mr. BECK in his registration failed to comply entirely with that statute. These are the facts concerning that matter: He was sitting in the office of Senator VARE, in Philadelphia, across the street from the office where the receiver of taxes has his place of business. By telephone call it was suggested to the office of the receiver of taxes as to where Mr. Beck was at that moment, and that he desired to pay his poll tax. One of the clerks from that office came over to the office where Mr. Beck was sitting and came to the door of the room in which he was sitting in a chair. The door was opened and the young man from the tax collector's office had in his hand an envelope containing the tax receipts for Mrs. Beck and Mr. Beck.

Mr. BECK, instead of handing the 50 cents personally to the young man who came from the collector's office; instead of doing that, the young man stayed at the doorway and another person in the office took the envelope over and handed it to Mr. BECK, to whom he handed 50 cents, who carried it to the man at the door and handed it to him.

To my mind this is too technical a matter to be considered as throwing suspicion upon the registration of Mr. BECK.

The SPEAKER. The gentleman from Michigan has consumed 20 minutes.

Mr. VINCENT of Michigan. Mr. Speaker, I yield myself 15 minutes more.

Mr. BECK, when he presented himself for registration as a resident in the city of Philadelphia, subjected himself to all of the obligations of that status. He immediately subjected himself, of course, to an assessment for his personal property, and that assessment promptly was made, and he is assessed for his personal property in the city of Philadelphia.

It further appears that all of his personal financial business is transacted in Philadelphia, the Girard Trust Co. being his fiscal agent for that purpose.

It is fair to say to the House that the house in Washington owned by Mr. BECK is a more commodious, better furnished house than the apartment in Philadelphia.

It is true also that two of the clubs to which I have referred in the city of Philadelphia have nonresident and resident rosters. When Mr. BECK was in New York he was carried as a nonresident member of these two clubs. When he came back, his attention was called to it—he had not personally paid his dues, his secretary attending to that—and he immediately had his status changed to a resident member of the club, to which his attention was called. It appeared in the hearing that the other single club which carried a nonresident roster still carried him as a nonresident member.

It appeared, too, that the automobiles which Mr. BECK owns and operates here in Washington were provided with District of Columbia licenses.

I think this is a fair statement of the facts connected with this matter. The testimony shows Mr. BECK has occupied this apartment about twice a week during the period of time he has had it, a year and a half before he was elected to Congress, except when he was absent from the city in Europe in connection with the Sesquiennial Exposition, where he went in the employ and in the interest of the very city where he now claims his inhabitancy to be. Of course, he was not in the apartment during the time of these trips, but he went abroad as a representative of the city of Philadelphia and in connection with its work and, incidentally, without remuneration therefor, because of his interest in its civic affairs.

Now, there is a precedent established by this House that in my own honest belief seems to dispose of this case if it is followed by this House, which precedent I think an examination will show has never been disturbed, and that is the case of Philip B. Key, of Maryland, who was elected to Congress in the Tenth Congress in 1806.

At that time many of the framers of the Constitution were still living; Thomas Jefferson was then President of the United States; Madison was later to become President of the United States.

These are the facts in the Philip B. Key case:

Mr. Key was born and raised and educated and called to the bar and practiced law continuously as a resident of the State of Maryland. He was born before the Constitution was adopted, of course. He lived there and practiced law until 1801, when he disposed of every semblance of a habitation in the State of Maryland and removed to a house which he owned in the Dis-

trict of Columbia at Georgetown. This house in Georgetown was the only house he possessed from 1801 until 1806.

About 1805 or 1806 he purchased a tract of land out in Maryland, upon which there was no house. He gave a contract in the spring of 1805 to erect thereon for his use a summer home, and it is set forth in the record of that case that this was useful only for a summer home. Before that house was entirely finished he removed with his family from the house in Georgetown out to the summer house in Maryland. He made this removal in September, 1806. He retained the house in Georgetown, in the District of Columbia, fully and completely furnished as it had been before.

Eighteen days after he moved his family out to the summer house in Maryland he was elected in an election to Congress. Twelve days after the election he moved back into the house in Georgetown, and he moved back and forth as his convenience dictated. He would spend the winter in his house in Georgetown and the following early summer move out with his family to the house in Maryland.

When he came to take his seat in this House his right to do so was challenged on the ground that he was not when elected an inhabitant of the State of Maryland.

There was prolonged discussion on this point; and the House, after full consideration, having in view the fact that he was born in that State, had been in the past identified with its interests, was returning to settle again in it when he went back 18 days before the election to his house there, found that he was, within the meaning of the constitutional provision, an inhabitant of the State of Maryland and sustained his right to a seat in this House.

To my mind there is no legal difference between these two cases, except, it seems to me, that Mr. BECK's case presents a stronger argument for his right to a seat than did that of Mr. Key.

There are these differences which you may consider. Mr. BECK, when he moved from Philadelphia, moved first into the State of New York, later came to the District of Columbia, and from there proceeded to Pennsylvania. Mr. Key did not have any intervening residence in a different State. But inhabitancy is a matter of mixed fact and intent on the part of the person, and I can see no legal difference in the situation of a man who gives up entirely his home in a given State and moves to the District of Columbia and then returns, as Mr. Key did, than in the case of a man who gives up his physical residence, moves to the State of New York, then to the District of Columbia, and then reestablishes his residence or inhabitancy in his original State.

There is this other difference between these two cases, that Mr. BECK in his tenure in the apartment in Philadelphia has a leasehold, while Mr. Key when he went back into Maryland had a freehold estate. But, to my mind, again—and I think to the Members of this House—it is well known that people are commonly making their inhabitancy, their abode in this country, in places where they hold it by lease as well as where they hold it by fee simple title. In the case of Mr. Key, his physical inhabitancy of that State existed for 18 days prior to the election. In the case of Mr. BECK it existed for 18 months before election.

It was argued in the hearings before the committee that there was another precedent which threw doubt on the applicability and standing of the Key precedent. That is the case of Bailey of Massachusetts—and, by the way, this Key case can be found on page 417, volume 1, Hinds' Precedents. In the case of Bailey he was a man who lived in Massachusetts in the house of his father and mother, when he was appointed on October 1, 1817, to a clerkship in the Department of State. He continued to hold that clerkship and to stay here in the District of Columbia and look after the duties of his clerkship until 1823, when he was elected to a seat in Congress from the district in Massachusetts where he had grown up. He had in the meantime, according to the report of the committee, maintained absolutely no indicia of any place of abode whatever in the State of Massachusetts during all of the period that he was engaged in the State Department. He married while he was here in the District of Columbia, and he and his wife established their residence, the place where they lived at least, in the home of her mother here in the District of Columbia. There was no house, no place of abode, no habitation of any kind in the district in Massachusetts which elected him to Congress from the period when he came to the State Department in 1817 until he was elected. The House in that case held that he did not conform to the provision of the Constitution requiring a man to be an inhabitant.

I think myself that to consider a man an inhabitant of a State where he has no habitation would be a contradiction in terms, and that the holding of the House was correct, and that it does

not in any way affect the validity of the Key precedent, nor of the right of Mr. BECK as the facts are presented here.

I think my time has almost expired and I must leave time for others.

Mr. Speaker, I reverence the Constitution of the United States. I would not vote to keep any man here who I considered had violated it with respect to his qualifications for his seat in the House, not even a man of the attainments of Mr. BECK of Pennsylvania, but I feel that the true conception of the thing is this, that in the last analysis for a fit membership of this House of Representatives we have got to depend upon the patriotism and the intelligence and the common sense of the people who inhabit the various districts of the country, and that after a district has selected a man deliberately at the polls by an unquestioned majority, before this House denies to that constituency the right to have the man of their choice represent them in this House, we ought to be perfectly certain and absolutely clear that his election does violate the Constitution of the United States, and until that is clear, and it is not in this case, that constituency should have the right to be represented by the representative of its choice. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. BRAND of Georgia. Mr. Speaker, may I be permitted to ask the gentleman a question?

Mr. VINCENT of Michigan. I yield the gentleman half a minute.

Mr. BRAND of Georgia. I simply wanted to ask whether Mr. Key was a married or a single man?

Mr. VINCENT of Michigan. He was a married man with a family.

Mr. BROWNING. Mr. Speaker, I yield myself 30 minutes and ask unanimous consent to extend and revise my remarks in the RECORD.

The SPEAKER pro tempore. Without objection, it is so ordered.

Mr. BROWNING. Mr. Speaker and gentlemen of the House, I regret exceedingly, of course, at any time to find myself in disagreement with the very delightful gentleman who is the chairman of my committee, and I wish to say that in my experience of six years' service with him on that committee this is the first time we have disagreed on any major issue with respect to an election contest. Neither am I free from the influence that always affects Members when they are voting on the seat of a colleague for whom they have the highest regard. But in my humble judgment the test of fidelity to my oath when I asserted that I would uphold and defend the Constitution of the United States comes when I am called upon to apply it to a friend and to some one whom I do hold in high regard and whose ability and capacity is unquestioned, as is the case in the matter of Mr. BECK.

I hope the membership will not consider that any political or partisan consideration has entered into this case so far as I am concerned, because there is nothing to be gained from a partisan standpoint, if Mr. BECK should be unseated. No one is contesting his seat. I do regard it an important matter when we have a mandate of the Constitution, and we come to a deliberate conclusion that our Constitution has been violated, that we vote in accordance with our convictions. That is why I am here to-day offering the substitute resolution in this case.

I have listened very attentively to the facts stated by the chairman of the committee. You will pardon me if I reiterate and add to some of those statements in giving my recollection of the facts in the case. Mr. BECK, after being a Federal official in the city of Philadelphia, came to Washington in 1900 as an Assistant Attorney General of the United States. He held that position until 1903, when he resigned to take up the practice of law in the city of New York. At that time he sold all of his property, so far as residences are concerned, in the city of Philadelphia and the State of Pennsylvania, and in Washington if he had any, and bought a home in the city of New York and lived there and practiced law until 1920, in November, just after the presidential election. He voted there in all elections until after 1920. He then came to the city of Washington, selling his New York home and severing all residential relations there, and bought a home on Twenty-first Street in this city and moved his family here, moved his extensive private library here, moved his art treasures and other things he had which comport with his accustomed degree of comfort, to which, of course, he was clearly entitled in the place where he lived. He retained his summer home at Sea Bright, N. J. He went back there to spend his summers on the ocean front and established a voting residence there, registered and paid taxes there, and he and his wife voted from there by mail in the presidential election of 1924.

In 1921, as has been stated, he was appointed Solicitor General of the United States by President Harding. That was several months after he had completely severed his relations in New York and after he got a home in Washington and moved into the home with his family. He acted in that capacity for four years, approximately. He resigned from his position as a public official, I believe, because of his eyesight failing. After his resignation he never moved his residence, he never moved his home or acquired a home elsewhere. He established a law office in the Southern Building in Washington and began the practice of law as a specialist in practice before the Supreme Court of the United States. He also renewed his connection with his law firm in the city of New York.

Since 1900 Mr. BECK has not practiced law in the State of Pennsylvania. Now, in 1926, Mr. BECK states he wished for two reasons to get a residential relation in the State of Pennsylvania. One was that he wanted to reestablish his connections with that State, he said, and the other was that he wanted to come to Congress from the first district of that State. In company with a Mr. Greenfield, a real estate man and a man of considerable connection in politics of that city, he went over the first district looking for a desirable apartment. He did not contract for one, but went to Europe on a business trip. While he was gone Mr. Greenfield seems to have made a selection of an apartment in the Richelieu Apartments, 1414 Spruce Street, and reserved it for Mr. BECK. It has one bedroom, one living room, a kitchenette, and bath. After Mr. BECK got back, and on the 6th of July, 1926, he signed a lease for this apartment as of June 1 of that year, agreeing, and has paid since that time, according to the proof, \$110 a month rental. He furnished it. I do not remember the testimony exactly as does the chairman when he states the amount of time Mr. BECK says he has been in the apartment. I do remember definitely, page 53 of the hearings, Mr. BECK's statement was that he had been in Philadelphia most every week since that time except summers and when he was in Europe on business. He stated that while in Philadelphia, up to about the 1st of January, 1927, he stayed in the apartment at night. After that time his sister, Miss Helen Beck, returned from Europe, and he turned over the apartment to her; and while she was there he went to either the Arts Club or the Bellevue-Stratford Hotel at night while he was in the city.

His visits there were sometimes to make speeches, but most of them, as was indicated in his statement, were to break the trip between New York and the city of Washington. Mr. BECK's family consists of himself and wife. He has two children, a daughter, whose husband is United States consul at Geneva, and his son, who is still in Europe and has been there since the World War, having served in the American forces. But he says, "My wife and I live alone." In other words, his family consisted of himself and Mrs. Beck. Mrs. Beck has never spent a night in this apartment in the city of Philadelphia, as I remember the record. Mr. BECK has never eaten a meal in that apartment, and so far as the record shows undoubtedly the ordinary, regular, permanent home where Mr. BECK has spent most all of the time since November, 1920, has been in the District of Columbia in his home on Twenty-first Street, Washington.

Now this question comes up: The chairman of the committee suggests that the supreme consideration is to be given the constituency of Mr. BECK in their right to select a person to represent them. In this same clause of the Constitution I call your attention to the fact that there are three inhibitions placed upon men who shall sit in this House: First, they must be 25 years of age; second, they must have been seven years a citizen of the United States; and, third, they must be an inhabitant of the State from which they are chosen at the time they are chosen.

Now, there is no difference in my mind in the effect of these inhibitions. Suppose that a constituency elected a man only 21 years of age to represent it in the House of Representatives, and this question was raised. What are you going to do? Suppose they had selected a man who had been naturalized less than seven years. No matter what his other qualifications are, what are you going to do? The same thing applies to an inhabitant; and the whole thing, my friends, rests on the determination of the question whether Mr. BECK is properly an "inhabitant" within the meaning of the framers of the Constitution.

We are not undertaking, those of us who are supporting the minority views in this case, to override the will of any constituency which is within constitutional bounds. We are not undertaking to disregard the will of the people. We are insisting that the people should rule; that their will is the Constitution. We are insisting that if Mr. BECK is not an inhabitant

of the State of Pennsylvania he falls in the same category with those men who are not citizens, or who have not been citizens for seven years, and have not attained the age of 25.

Mr. DEMPSEY. Mr. Speaker, will the gentleman yield?

Mr. BROWNING. Certainly.

Mr. DEMPSEY. Is there not this very vital distinction between the two questions on the one side, of age and of being an inhabitant or citizen of this country, that the evidence must be necessarily clear, distinct, and convincing, while in the other case the evidence may be conflicting and may be determined largely upon the intention of the man?

Mr. BROWNING. Not at all. The evidence in each of these cases ought to be treated exactly the same.

Mr. DEMPSEY. Treated exactly the same, but there can not be any real dispute about a man's age, or about how long he has been a citizen.

Mr. BROWNING. We are not disputing the facts in this case. We are taking Mr. Beck's word for them.

Mr. DEMPSEY. But there can be very easily a dispute about where a man resides in this country, and that question may depend almost wholly upon the intention of the man himself.

Mr. BROWNING. No. The intention does not determine the matter. An intention in this instance is a deduction of law, founded on fact, as has been numerous laid down, not based upon what a man says alone but based upon that and the facts of what he did. That is what I am insisting on. Mr. Beck did make the declaration that he was going back there to Philadelphia where, among his books and art treasures and his friends, he could spend the declining years of his life. But he did not do it. If he had borne out his intention and moved his family to Philadelphia, then his case would be different.

Mr. JACOBSTEIN. Mr. Speaker, will the gentleman yield?

Mr. BROWNING. Yes.

Mr. JACOBSTEIN. Have you noted the authorities on that point?

Mr. BROWNING. We have cited numerous authorities in the report.

Mr. JACOBSTEIN. Is not the fact emphasized that a man ought to be familiar with conditions in the district represented by him?

Mr. BROWNING. Yes. Now, mind you, when the draft of the Constitution was offered to the committee of five, the word "resident" was in there. Mr. Sherman moved to strike out that word and insert instead the word "inhabitant." Mr. Madison engaged in the discussion, and it was clearly the intention to put in that language, because Mr. Madison called attention to the fact that a man might be away on business, public or private, or pleasure, and it might be claimed by some man having spite against him that because of this temporary situation he was not a resident; and so the word "inhabitant" was inserted instead, because they wanted a man completely identified with the constituency which he represented. That is fundamental; it should be fundamental with the American Government to-day if we have any fundamentals. We should seek to guarantee a true representation of local sentiment, as it were, to present a cross section of the people's thoughts, to represent them truly in the more numerous branch of Congress. I believe Mr. Wilson expressed it when he said that they wanted a transcript of the people's mind.

Now, in the discussion of this change of verbiage, and elsewhere in the debate, these very men, Mr. Sherman and Mr. Wilson and Mr. Gouverneur Morris, all insisted that the Representatives should be elected every year. They said in substance, "We do not want a man to go away from his constituency and stay at the seat of government more than a year before he comes back and renders an account of himself to his constituents and permits them to determine whether he has taken on the esprit de corps of the locality of the Capitol."

Now, what about this as to Mr. Beck? He had been away from his constituency 23 years. During that length of time he had lived 17 years in the city of New York. My experience as a countryman is that if there is any place in this world that could get under a man's skin it is the city of New York. [Laughter.]

Mr. WELLER. I would like to ask the gentleman if he does not like to come to New York?

Mr. BROWNING. I do. It is a stupendous and magnificent city, ringing with the tumult of nocturnal pleasure, and other enjoyments. [Laughter.] However, it is a dangerous place for a man to go, regardless of where he has been raised. I do not care who he is. [Laughter.] I only spent about three weeks there at one time, and yet Mr. Beck stayed there for 17 years.

Mr. CAREW. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. CAREW. Do you think he is a Republican from New York? [Laughter.]

Mr. BROWNING. Well, I will say this to the gentleman: That I do not know whether he is or not, but I know the record discloses that he started out in very good company as an official under the Democratic administration in the State of Pennsylvania; that he then came to Washington, after he had changed his allegiance, which he had a perfect right to do, though I think he made a great mistake. Then he became a Republican official here. Then he went to New York and came back to Washington and held office under a Republican administration. I do not think the city of New York itself had anything to do with his becoming a Republican. They are not so indigenous to that city.

Mr. HASTINGS. I want to ask the gentleman one question.

Mr. BROWNING. Briefly, if you please.

Mr. HASTINGS. Does the gentleman state the record shows that Mr. Beck never ate a meal in this apartment nor his wife remained there a single night?

Mr. BROWNING. That is true.

Mr. VINCENT of Michigan. I do not think that is borne out by the record, if the gentleman pleases. Further than that, the gentleman from Tennessee, in giving the rooms of this apartment, left out the living room.

Mr. BROWNING. Possibly I did that, but it is a two-room apartment. May I ask the chairman what objection he has to the statement I made that Mr. Beck never ate a meal in this apartment? The record shows that, and that Mrs. Beck never spent a night there. The record shows that.

Mr. VINCENT of Michigan. I do not think the record shows that. It may possibly show that she did not eat a meal there, but she did stay there with Mr. Beck, according to the record.

Mr. BROWNING. I am positive the record shows different.

Mr. BLACK of New York. Will the gentleman yield?

Mr. BROWNING. For a brief question.

Mr. BLACK of New York. Does the gentleman take the position that the fact that Mr. Beck maintained a home in the District of Columbia of itself disqualifies him as an inhabitant of the State of Pennsylvania?

Mr. BROWNING. Not at all. The position I take is this: That he not only maintained a home in Washington but occupied it as his place of abode. I do not claim that the fact that he bought himself a home in the District disqualifies him at all, but the fact that he is an inhabitant of the District of Columbia is the thing that disqualifies him.

Mr. GREEN. Where did his family reside?

Mr. BROWNING. His family resided here in Washington. Now, under any of the circumstances which you can find in this record, when Mr. Beck got through with the temporary duties he was performing, whether they were in the city of Philadelphia, whether they were in New York, or whether they were in Europe, he came to Washington where his home is. Now, the test of inhabitancy is the place where a man lives, to which he goes under all ordinary circumstances, the place where he has his family life, the place where his folk live, the place where he goes to when he is sick. Mind you, in this case, in 1926, Mr. Beck made, I believe, three speeches in the city of Philadelphia during that campaign; but after he finished on Saturday night before the election on Tuesday he came home to Washington. He was not even there to vote. Why? Because he was at home and not in Pennsylvania at all. He was sick in his regular place of abode.

Now, the chairman of the committee discusses this Key case. Let me show you the difference in that case and this one. Mr. Key made a declaration in the spring before this house was built, when he bought this farm, that he intended to build a home on it and to live in it himself. He did do that. He declared in the spring of the year that he was going to do it. He bought a part of his wife's family estate; he built a house on it for himself expressly; he went back to it and was living there at the time he was elected to Congress. He had moved his family there; he had taken his complete household, including his servants. And when he left Maryland and came to the District of Columbia he kept his law practice in Baltimore. He declined to take practice in the city of Washington at all, but he kept all of his activities there in Maryland. He was completely identified with that State except for the time he was a resident of the District; but he went back and qualified. There is too much of a disposition in this case to get the idea of citizenship and the idea of inhabitancy interwoven. They are not the same at all.

Take the Key case, for instance. At the time he was elected to Congress and got his seat from the State of Maryland, the law required a man to live in the State of Maryland for 12 months before he could vote. Key had only been there 18 days.

He was an inhabitant but he could not vote. He met the qualifications for a Member of Congress, yet he could not vote in his own election.

They are not the same at all, and I hope the House will not have that point disturbing their minds. Citizenship consists of an aggregation of civil privileges. Inhabitaney depends entirely on where a man lives and has his ordinary home.

Mr. KINCHELOE. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. KINCHELOE. Does the evidence disclose whether or not Mr. BECK voted from the time he rented this apartment in Philadelphia until he was elected to Congress?

Mr. BROWNING. Here is what the record shows: In May, 1926, after it was determined that Mr. VARE was going to leave the House, while Mr. BECK was in Europe, out of order on the alphabetical list for assessment, Mr. BECK was listed exactly six months to a day before the election as a taxpayer for the payment of this occupational tax of 25 cents. If a man has been a citizen of Pennsylvania, he can go back and resume his citizenship with a six months' residence. He ignored that assessment. He was assessed twice in 1927, one time out of order, not on the regular alphabetical list, but picked up out of order. He ignored the first one, but the second one he paid just 11 days before the primary in which Mr. Hazlett, who had been elected to the House, was running for a county office. He voted in that primary on that poll-tax receipt, which was gotten as the chairman has indicated, 11 days after its purchase.

The law requires that the man shall either go to the office of the receiver of taxes and pay the poll tax himself or he must pay it to a deputy at one of the registration places on registration day, or he must have an agent do it on written authority from him. Mr. BECK had neither of these requirements complied with. There was no intention on his part, I concede, to violate the law; he is incapable of that; but I am asserting he had no right under the law to vote on that tax receipt in the primary election in September before he was elected in November.

Now, Mr. BECK very properly calls my attention to a statement I made in the minority report to the effect that a man had to have his poll-tax receipt 30 days, I believe, before the election. If I am wrong I want to correct that, because he insists that that does not apply to a primary. Since that time, when I told him I would correct it, I have gone further into the statute, and I confess I am not clear whether the law in Pennsylvania in that regard applies to primaries or not; but I know that in the State of Pennsylvania the law is specific that before a man can vote he must be a resident for a certain length of time, and the court goes on to describe this residence by saying:

It means that place where the elector makes his permanent and true home, his principal place of business, and his family residence, if he has one; where he intends to remain indefinitely, and without a present intention to depart; when he leaves it he intends to return to it, and after his return he deems himself at home. (71 Pa. 302.)

This is a requirement for voting which Mr. BECK never met in the State of Pennsylvania.

Mr. GREEN. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. GREEN. How many times during the 20 years of his alleged residence in the city of Washington do the records disclose that he voted in Pennsylvania, if any?

Mr. BROWNING. The first time he voted was in this primary in 1927, and that is the only time he had voted for 20 years in the State of Pennsylvania when this proof was taken.

Now, as to inhabitaney, in the Bailey election case from Massachusetts which the chairman referred to—

Mr. STEAGALL. Will the gentleman yield for one question?

Mr. BROWNING. Yes.

Mr. STEAGALL. Reference has been made to Mr. BECK's membership in various clubs in the city of Philadelphia; did the committee ascertain whether or not he had membership in clubs in Washington or elsewhere as well as in Philadelphia?

Mr. BROWNING. Yes; I think he was a member of possibly one or two clubs in the city of Washington, but I will not be certain about that. But he always registered, when he registered away from the city of Washington, with his residence as Washington, D. C. He had all goods for his personal comfort sent to his residence here on Twenty-first Street. Everything tended to show he considered this his home and abode and, in reality, it was. There is no question about that in my mind.

Now, as to inhabitaney, in this Bailey case that has been referred to from Massachusetts, this man was appointed a clerk in the State Department by John Quincy Adams. He came here from his father's residence. He was a single man then and had lived in his father's home. He left his library

back there. The proof tends to show he had expressed always the opinion and the conviction that he was still identified with Massachusetts and had his citizenship there, and even as great an authority as John Quincy Adams himself certified to that. He lived here for four years in a hotel and then he married in the District of Columbia. He had never exercised the rights of citizenship here, and people could vote here at that time. He had never done anything to contradict his conviction, often expressed, that he was still a citizen in full standing of Massachusetts. He was elected to Congress one year after he had married and moved into the home of his mother-in-law. They rejected him, and in the consideration of that case I want to read just this one statement:

After reviewing the circumstances attending the adoption of the clause of the Constitution, which I referred to a moment ago, the committee commented upon the fact that the word "resident" had first been proposed but had been put aside for "inhabitant" as being a "stronger term, intended to express more clearly their intention that the persons to be elected should be completely identified with the State in which they were to be chosen."

Now, here is a definition which, I think, is really the summing up of the definition of inhabitaney.

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. BROWNING. Mr. Speaker, I yield myself 10 minutes more.

This is from Burrill's Law Dictionary:

The Latin habitara, the root of this word, imparts by its very construction frequency, constancy, permanency, closeness of connection, attachment, both physical and moral; and the word "in" gives additional force to these senses.

Mr. DALLINGER. Mr. Speaker, will the gentleman yield?

Mr. BROWNING. Yes.

Mr. DALLINGER. I understand that the gentleman is quoting from Bouvier's Law Dictionary?

Mr. BROWNING. No; from Burrill's.

Mr. DALLINGER. I notice that you do not cite Bouvier's Law Dictionary.

Mr. BROWNING. Oh, I am not willing to have the gentleman make my speech.

Mr. DALLINGER. Is the gentleman aware that in Bouvier's Law Dictionary the statement is made that "inhabitant" as used in the Federal jurisdiction act of 1789 means citizen, and there are two decisions of the Supreme Court confirming that?

Mr. BROWNING. I can cite the gentleman to cases from his own State that will refute that. An Illinois case decides that inhabitant is not synonymous with citizen. I will go on over to a Massachusetts case.

As used in the general statutes—section 11, paragraph 12—providing that all personal estate within or without the State shall be assessed to the owner in the city or town where he is an inhabitant on the 1st day of May, "inhabitant" does not mean any man who may happen to be personally in a town or a city, but means a man who has a home in a place, so any man who established a permanent home for himself and family, if he has one, and who there performs all the duties required of him.

There are a great many decisions, not only from the States of Illinois and Massachusetts, but from others, and this I get from the State of Delaware:

A man may be a citizen without being an inhabitant of the State, as a man may be an inhabitant without being a citizen. This is not only an obvious distinction, but one which the Constitution itself makes, as in the qualification of voters it requires both citizenship and residence.

Here is another United States case:

The term "inhabitant," as used in an act of Congress providing that no civil suit shall be brought before certain courts against an inhabitant of the United States by any original process in any other district than that whereof he is an inhabitant or in which he shall be found at the time of serving the writ, is a mere equivalent description of citizen and alien. A person might be an inhabitant without being a citizen, and a citizen might be an inhabitant though he retain his citizenship. Alienage or citizenship is one thing and inhabitaney, by which is understood local residence, animo manendi, quite another.

That is in the case of Piquet v. Swan (U. S. 19 Fed. Cas. 609, 613).

I cite another from Fifth Federal:

"Inhabitant," as used in Civ. Code Or., sections 1051, 1053, which declared that the jurisdiction to current letters of administration on the estate of a deceased person is vested in the county courts of the county of which the deceased was at or immediately before his death an inhabitant, means one who has an actual residence in the county or who is

ordinarily personally present there, not merely in itinere, but as a resident and dweller therein. It is not the equivalent of the technical term "domicile."

The word "inhabitant" implies a more fixed and permanent abode than resident.

That is from another Federal case.

It comprehends locality of existence, the dwelling place where one maintains his fixed and legal settlement, not the casual and temporary abiding place which is required by the necessities of present surrounding circumstances. A mere sojourner is not an inhabitant in the sense of the act.

Mr. JACOBSTEIN. Mr. Speaker, will the gentleman yield?

Mr. BROWNING. Yes.

Mr. JACOBSTEIN. If the report of the committee is sustained, what would prevent any wealthy man from renting a room anywhere within a State and getting himself elected by that subterfuge?

Mr. BROWNING. I think the door is wide open. It is not the immediate effect of seating Mr. Beck in this House that I am contending against. It is the precedent that you are going to set by leaving the situation such that where any kind of an organization, whether it be good or bad, can select any individual it chooses in the United States, establish a temporary, fly-by-night residence by renting an apartment, and sending him to Congress to serve any purpose they want.

I think this is a very serious matter. I think this is one thing that the fathers had in their minds as possible when they laid down this inhibition. It does not matter to me, except I want to relieve my mind of being convicted with regard to the true construction of the Constitution.

Reference was made a while ago to the establishment here in the District of Columbia of homes by men to live in who are in public life. That is not under consideration. I confess to you that a man has a perfect right to establish a home here which is incident to the discharge of his public duties.

But in this case Mr. Beck certainly can not go back of 1926, and the things that have developed since that time must govern his case. And in the beginning we find him with his permanent home established in the city of Washington. He never established it for the temporary purpose of representing these people in Congress, but he went to the district and established a temporary residence there in an attempt to qualify as a Member of Congress. He reversed the order entirely. Nobody else is endangered. It is whispered around that somebody else may be hit. I must insist that nobody is disqualified because he has a home in the city of Washington, but if this situation is so widespread as has been intimated in some quarters, then it is high time that we asserted what we understand to be the true meaning of the Constitution.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. BROWNING. Yes.

Mr. GREEN. Was anything brought out in the record to show whether or not Mr. Beck had church membership in that district?

Mr. BROWNING. I do not remember anything about church membership.

Mr. GREEN. How about any lodge membership?

Mr. BROWNING. We discussed that, the clubs to which he belonged, but no fraternities that I have any recollection of.

Mr. PERKINS. Does not the record show that he was a trustee of the Episcopal Academy in Philadelphia?

Mr. BROWNING. That may be true, but that does not mean membership.

Mr. PERKINS. It is pretty close to membership.

Mr. BROWNING. I happen to belong to another church and I do not know what the requirements of membership are in that church.

Mr. DEMPSEY. Does not the only authority of the State of Pennsylvania quoted in the minority report at the top of page 17, in the final part of the decision, lay this down as the indispensable requisite of citizenship:

It means that place where the elector makes his permanent or true home, his principal place of business, and his family residence, if he has one; where he intends to remain indefinitely; and without a present intention to depart; when he leaves it he intends to return to it, and after his return he deems himself at home.

Mr. BROWNING. Yes.

Mr. DEMPSEY. Making the question a question of intention, just as suggested by the previous question?

Mr. BROWNING. No. It does not do that at all. It says "return." I regret my inability to explain to the gentleman what I am trying to talk about, and that is, that the expressed intention must be followed by his action, and he never acted in

this case. He has lived in the District of Columbia, and has every month since November, 1920. It has been his permanent place of abode, where his wife lives and he had his home life.

Mr. DEMPSEY. My understanding of what the gentleman said was that he had an apartment and residence in the city of Philadelphia which he rented previous to his—

Mr. BROWNING. Just as a pretext in order to come to Congress. Mr. Speaker, I do not yield any further.

Mr. PERKINS. Will the gentleman yield?

Mr. BROWNING. I will.

Mr. PERKINS. On page 34, Mr. Beck testified as follows:

The idea that I have not occupied that apartment constantly in the last year and a half is quite a mistake. That explains my allusion in my statement that a member of my family has occupied that apartment continually for the last year.

Mr. BROWNING. And, of course, he said he did not stay there while his sister was there after she came back from Europe six or eight months before he ran for Congress.

The SPEAKER. The time of the gentleman has expired.

Mr. VINCENT of Michigan. Mr. Speaker, I yield 10 minutes to the gentleman from West Virginia [Mr. BACHMANN].

Mr. BACHMANN. Mr. Speaker and gentlemen of the House, some question has developed as to whether or not Mr. Beck spent any time in his Philadelphia apartment, whether or not he lived there any part of the time. In this connection I want to refer the gentleman from Tennessee [Mr. BROWNING] to page 13 of the record in which Mr. Beck in his statement says:

On June 1, 1926, I rented an apartment at 1414 Spruce Street, which I have since maintained as my Philadelphia residence. It was an unfurnished housekeeping apartment, and I furnished it with all necessary furniture and equipment. This apartment my family and I have occupied from time to time, and one member almost continuously. Excluding the summer months, I am in Philadelphia nearly every week. My chief purpose in renting my Philadelphia apartment was not to obtain a seat in Congress, but to reidentify myself with my native city and Commonwealth as a citizen.

Let me, gentlemen of the House, take you a little further and show you exactly what Mr. Beck's intention was when he took this apartment. On page 58 of the record Mr. Beck says:

In taking that apartment when I rented it, the dominant purpose with me was to again establish a status in Philadelphia as one of its people. The seat in Congress was then a possibility undoubtedly, and I would not want to say, and could not say truthfully, that it had nothing to do with the renting of the apartment. It involved a very substantial sacrifice to me. But at least I would not want to be the kind of Washingtonian who was content to escape all civic responsibilities and duties, and I felt that I had all my life preached the duty of every citizen taking a part in politics and I wanted to have a status as a citizen, and that I could not have in Washington, and I established it in Philadelphia to do my civic duty.

Mr. DEMPSEY. Will you not read the next two sentences? Because there is a conflict with the previous statement. It is on page 58.

Mr. BACHMANN. I do not have a copy of the hearing before me.

Mr. DEMPSEY. I read:

Did you sleep there?

Mr. Beck. Many times.

Mr. BACHMANN. I understood that was the fact.

Mr. BRAND of Georgia. Mr. Speaker, will the gentleman yield?

Mr. BACHMANN. I yield to the gentleman from Georgia.

Mr. BRAND of Georgia. Does the record show that Mr. Beck's sister was a member of his family?

Mr. BACHMANN. Yes. She lived in that apartment in Philadelphia.

Mr. BRAND of Georgia. I know; but prior to that time, when he was living with his wife, was his sister living with him and his wife?

Mr. BACHMANN. My recollection is that his sister spent most of her time in Europe, and that at other times she visited in Washington.

Mr. BRAND of Georgia. I did not know whether the gentleman had in mind Mr. Beck's sister as a part of his family.

Mr. KINCHELOE. Mr. Speaker, will the gentleman yield?

Mr. BACHMANN. Yes, I yield.

Mr. KINCHELOE. I have not heard the gentleman from Tennessee [Mr. BROWNING] speak about Mr. and Mrs. Beck living in this apartment as man and wife.

Mr. BACHMANN. The only thing referred to by Mr. Beck as to that is that they would go there occasionally and occupy that apartment. If the gentleman wishes to bring out the fact

as to where Mr. and Mrs. Beck lived most of the time, I think the record will show that they lived most of the time in Washington.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. BACHMANN. I yield.

Mr. GREEN. Does the record disclose whether or not Mr. Beck owned property in Philadelphia, in this district, at the time of his election?

Mr. BACHMANN. I understand he owns real estate in Pennsylvania, but whether it is in this district or not I do not know.

Mr. GREEN. Does the evidence show that he voted in Philadelphia before that?

Mr. BACHMANN. He was a resident there all his life until he came to Washington. While he lived in Philadelphia he was Assistant United States Attorney and then United States Attorney, and voted there.

Mr. VINCENT of Michigan. The record shows that Mr. Beck was assessed for \$30,000 of personal property in Philadelphia.

Mr. BACHMANN. Yes. He was assessed in 1926 and 1927.

Mr. NELSON of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. BACHMANN. I yield to the gentleman.

Mr. NELSON of Wisconsin. The Constitution requires a man to be an inhabitant. Where was Mr. Beck's inhabitancy—in Philadelphia or in Washington?

Mr. BACHMANN. We think it was in Philadelphia.

Mr. NELSON of Wisconsin. Can you have it in two places at one time?

Mr. BACHMANN. Not in my opinion. A man may have a dozen residences if he so desires, or three or four; but I do not think he can have two inhabitancies at the same time.

Mr. NELSON of Wisconsin. That was what I was trying to settle in my own mind. It must be dependent upon what the Constitution provides. A man can not have two inhabitancies.

Mr. DEMPSEY. Will the gentleman read from the record as to Mr. Beck's membership in the clubs? It has been referred to by Members on the other side.

Mr. BACHMANN. That has all been put in the record by the chairman of the committee, Mr. VINCENT of Michigan.

Mr. BUSBY. Mr. Speaker, will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. BUSBY. The fact that Mr. Beck remained in this apartment would not restrict his residence there if he was actually residing in Washington with his wife?

Mr. BACHMANN. No.

Mr. COCHRAN of Pennsylvania. I want to call the gentleman's attention to Mr. Beck's testimony on page 34 in answer to that question.

Mr. BACHMANN. Mr. Speaker and gentlemen of the House, the only question involved in the case of JAMES M. BECK is that growing out of Article I, section 2, of the Constitution, which provides:

No person shall be a Representative who shall not have attained to the age of 25 years, and has been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Therefore, we are called upon to decide whether or not Mr. Beck was an inhabitant of the State of Pennsylvania within the meaning of the Constitution when he was elected.

The word "inhabitant" has many meanings. It has been construed to mean an occupant of lands; a resident; a permanent resident; one having a domicile; a citizen; a qualified voter. No exact definition can be given of the word "inhabitant" as applicable to all cases.

The Supreme Court of the United States has said that—

In a statute providing that a majority of the inhabitants of the town, to be ascertained by an election, might authorize the issue of bonds the word "inhabitant" means legal voter. (*Walnut v. Wade*, 103 U. S. 683.)

That—

"Inhabitant," as used in the statute of Henry the Eighth, concerning bridges and highways and providing that bridges and highways shall be made and repaired by the inhabitants of the city, has been construed to include those who hold lands within the city where the bridge is to be repaired lies, though they reside elsewhere. (*Bank of the U. S. v. Deveaux*, 9 U. S. (5 Cranch) 61.)

That—

In the act of September 24, 1789, providing that no civil suit shall be brought against an inhabitant of the United States in any other district than that whereof he is an inhabitant, the term "inhabitant" means citizen. (*Ex parte Shaw*, 145 U. S. 444.)

That—

On a change of domicile from one State to another citizenship may depend upon the intention of the individual. But this intention may be shown more satisfactorily by acts than declaration. An exercise of the right of suffrage is conclusive on the subject. (*Shelton v. Tiffin*, 6 Howard 163.)

That—

The very idea of a political community, such as a nation is, implies an association of persons for the promotion of their general welfare. Each one of the persons associated becomes a member of the nation formed by the association. For convenience it has been found necessary to give a name to this membership. The object is to designate by a title the person and the relation he bears to the nation. For this purpose the words "subject," "inhabitant," and "citizen" have been used, and the choice between them is sometimes made to depend upon the form of government. "Citizen" is now more commonly employed. \* \* \* It is understood as conveying the idea of membership of a nation. (*Minor v. Happersett*, 21 Wallace 162.)

One of the best definitions I have been able to find is that in the case of *Howard College v. Gore* (Mass. (5 Pick) 370):

An inhabitant is one who, being a citizen, dwells or has his home in some particular town, where he has municipal rights and duties and is subject to particular burdens; and this habitancy may exist or continue notwithstanding an actual residence in another town or in another county.

The SPEAKER pro tempore (Mr. LaGuardia). The time of the gentleman from West Virginia has expired.

Mr. VINCENT of Michigan. Mr. Speaker, I yield to the gentleman five additional minutes.

The SPEAKER pro tempore. The gentleman from West Virginia is recognized for five additional minutes.

Mr. BACHMANN. In other words, gentlemen, we must reach a conclusion as to what the word "inhabitant" means.

It has been argued that the word "inhabitant" as used in the Constitution refers not to a political status but to physical presence. In this connection it is significant that the representation was to be for the State and not of the district, which in itself excludes the idea of physical presence in that neighborhood. This clearly indicates that the framers of the Constitution had in mind, by selecting the word "inhabitant," a political status and not a physical presence in a particular locality—the question of whether an individual owed allegiance, whether he was subject to the exactions of its laws, and whether he could share to the extent permitted in the benefits of the laws. To be an "inhabitant" of a State meant either an involuntary subjection to its laws by birth or a voluntary subjection to its laws by adoption. Always the idea has been one of political allegiance. Therefore it can be readily seen that the term "inhabitant" had no reference to the vague standard of whether an individual spent the greater part of a year in one place or another but referred to his political status.

I do not believe it can be seriously contended that Mr. Beck did not have a political status in Philadelphia. Therefore, if you believe to be an inhabitant of a State meant a political status, there is no question other than that Mr. Beck is clearly entitled to his seat.

Mr. NELSON of Wisconsin. If it was a political status it could not have any bearing on the District of Columbia at all?

Mr. BACHMANN. That is true. I am coming to that with respect to the Washington residence and the Philadelphia residence.

It should be kept in mind when talking about the Washington residence of Mr. Beck, whether we are talking about the same thing the Constitution requires in that portion requiring one to be an inhabitant of the State.

It is well settled throughout the United States that there are two kinds of residence—one permanent and legal, equivalent to domicile, the residence which makes citizenship, which establishes relation between the man and the State, and the other, the residence which consists in actual physical presence in a place other than a man's domicile. It has been held by courts of last resort over and over again that a man may have two residences, one his domicile and the other his actual residence.

It is clear, and no doubt will not be contradicted, that a man may have his domicile and the right to vote in Pennsylvania, and at the same time be a resident of the city of Washington.

Now, which of these two residences is meant by the Constitution. The universal rule throughout the Union is that the word "residence" when it refers to eligibility to office, means domicile; that is, permanent legal residence, and has no reference to where a man is actually living.

No man can be deprived of his citizenship, his domicile, his legal residence, against his will. No man can be deprived of it

except by his own intention. Will anyone doubt that JAMES M. BECK tells the truth when he solemnly declares, as he does, that?—

from the time I sold my home in New York I had but one desire, and that was to establish a residence in Philadelphia and become again a citizen of that city. (P. 75, record.)

The SPEAKER. The time of the gentleman from West Virginia has again expired.

Mr. VINCENT of Michigan. Mr. Speaker, I yield the gentleman three additional minutes.

Mr. BACHMANN. Can anyone doubt that Mr. BECK is telling the truth when he solemnly declares, as he does, that?—

I announced at a large public dinner in Philadelphia on April 30, 1925, that it was my intention to reidentify myself with Philadelphia. (P. 151, record.)

Can anyone doubt that Mr. BECK is telling the truth when he says?—

it being my intention to resume my citizenship in Philadelphia I ceased to vote in Sea Bright, N. J., after the presidential election of 1924. (P. 2 Beck statement.)

Can anyone doubt that Mr. BECK is telling the truth when in carrying out his intention to make Philadelphia his legal residence he said?—

I finally decided to acquire a permanent residence in that city, and on June 1, 1926, I rented an apartment at 1414 Spruce Street, which I have since maintained as my Philadelphia residence. (P. 3, Beck statement.)

Can anyone doubt that Mr. BECK is telling the truth, when in carrying out his intention to make Philadelphia his legal residence, he said?—

I was assessed as a taxpayer there in May, 1926, and again in December, 1926, and in May, 1927. I registered as a voter in Philadelphia in September, 1927, and voted in the primaries of September 20, 1927. (P. 3, Beck statement.)

Can anyone doubt that Mr. BECK is telling the truth when he said?—

Hardly a week goes by that I am not in Philadelphia, sometimes two or more nights. The fact that I transact my personal affairs there; that my personal fortunes are conducted in Philadelphia; that there I control my investments; and there I manage the property that I have; my identification with the city's civic interest—I think I can say without exaggeration, the unselfish identification that I have had in the civic enterprises in Philadelphia, all show my presence there is not an infrequent thing. (P. 17-18, extract from hearings.)

Will you believe, against the evidence, that Mr. BECK is still an inhabitant of New Jersey, and as well a citizen of that State, as contended by the gentleman from Pennsylvania [Mr. KENT] on page 32 of the record? Will you believe, against the evidence, that it was not the intention of Mr. BECK to abandon his political status in the State of New Jersey? Will you believe, against the evidence, that it was not the intention of Mr. BECK to reidentify himself with the city of Philadelphia and the State of Pennsylvania, the State of his birth, the home of his father; the city and State that had showered honors on his youth and had more honors in store for his manhood; the State of his nativity, of his ambition, and his pride.

Can anyone contend that he intended to abandon that and take up his residence in the one place in the United States where residence gives no political rights and offers no future to ambition and to hopes—the District of Columbia?

To Mr. BECK alone belongs the privilege of acquiring inhabitancy or citizenship in any State in the Union. That it was his intention to do so in Pennsylvania is beyond doubt. That his acts and deeds in furtherance of that intention beyond question establishes his inhabitancy and citizenship. Having thus subjected himself to the burdens of taxation, the burden of renting a habitation, the burdens of jury service, the burdens under the succession law under which the State of Pennsylvania will take some portion of his estate when he passes on, he surely is entitled to the enjoyment of those privileges similarly enjoyed by all other citizens and inhabitants of that great State. To deny him his seat as a Member of the House of Representatives from the State of Pennsylvania would only mean the taking from him of certain obligations and services and deprive him of his constitutional right of making himself an inhabitant and citizen of one of the States of this Union, a right enjoyed by all citizens and inhabitants of the United States under the Constitution. [Applause.]

The SPEAKER. The time of the gentleman from West Virginia has again expired.

Mr. BROWNING. Mr. Speaker, I yield five minutes to the gentleman from Maryland [Mr. COLE].

Mr. COLE of Maryland. Mr. Speaker, ladies, and gentlemen of the House, as a member of the same profession with Mr. BECK, as a member of the American Bar Association and the Supreme Court bar of this country, I have the greatest respect for his ability and learning; but when by an effort, such as this record presents, short of trickery he attempts to manipulate the provisions of the Constitution of this country to gain a seat in this House I am most willing to take my stand against him.

The majority report from the Committee on Elections No. 2, coupled with Mr. BECK's own statements before the committee, is such an ingenious and unprecedented manipulation of sound and common sense interpretation of the constitutional provisions involved it becomes necessary at the outset to consider the facts in order to locate, if possible, some reason therefor. The facts—taken from the committee's reports—bearing on the issues I shall discuss can be briefly stated as follows:

Mr. BECK's early life was spent in Pennsylvania, he being born and educated there. In 1900 he moved to Washington to accept an appointment as Assistant Attorney General of the United States. This position he resigned in 1903 when he went to the city of New York to practice law. At the same time he abandoned his residence in Philadelphia and acquired a fixed domicile in New York City. He continued to reside in New York City until November, 1920.

In the intervening period between 1903 and 1920 he acquired a summer home at Sea Bright, N. J., which property he still owns, and at which place he registered and voted as late as the presidential election in 1924. This voting status in New Jersey he retained in November, 1927, and, so far as we are advised, at the present time. So far as the New Jersey authorities are concerned, no act of Mr. BECK has shown withdrawal of claim for voting privileges in that State. Mrs. Beck enjoyed the same voting status, and it is fair to assume she still does, even from the standpoint of intention, because not by the greatest stretch of imagination could she qualify as a resident or inhabitant of Pennsylvania. In 1920 Mr. BECK sold his residence in New York City and came to Washington and purchased a home he has owned since at 1624 Twenty-first Street NW. Between June, 1921, and June, 1925, Mr. BECK served as Solicitor General of the United States. Upon resigning that position in June, 1925, he established a law office in Washington and also resumed his connection with the old law firm in New York. At no time since 1900 has he retained a law office in Pennsylvania or practiced law there. In the spring of 1926 he inspected several apartments in the first congressional district in Philadelphia, and on the 6th day of July following he executed a lease of date June 1, 1926, for a 2-room apartment at 1414 Spruce Street. The apartment is equipped with kitchenette, but Mr. BECK has never eaten a meal there; it has one bedroom and that has been occupied continuously by his unmarried sister, Miss Helen Beck; Mrs. Beck has lived at the Washington home continuously since its purchase and no claim is made that the apartment in Philadelphia aforesaid was for her use or convenience in any way. Mr. BECK always registers as from Washington when he goes to hotels throughout the country, this being true during the life of the aforesaid lease. He has his merchandise for personal comfort sent to his Washington home; he has his automobiles for every use registered in the District of Columbia. At no time has he treated the small 2-room apartment in Philadelphia, located—as I think fair to submit, in a locality as different in point of environment, value, and habit from that which Mr. BECK has been and is now accustomed to, as day is from night. It is fair to state that the facts in no particular indicate or convince one that Mr. BECK's rental of this apartment presented to him in any sense a real and bona fide habitation.

The lease must have been entered into as an attempt, now appearing to be of the weakest kind, to comply with the constitutional requirement for an inhabitant. On the 9th day of September, 1927, Mr. BECK has delivered to him in the office of Mr. VARE his occupational-tax receipt, for which the sum of 25 cents was paid. Considerable doubt exists as to his compliance with the registration laws of Pennsylvania, but this I shall not discuss. He then registered as a voter in the primaries in the city of Philadelphia in September, 1927, at which primary, Mr. Hazlett, a relative of Mr. VARE, was the candidate for Representative from the first district to succeed Mr. VARE. After the primaries, Mr. Hazlett, having been nominated, resigned, and to fill the vacancy so caused by the Republican authorities nominated Mr. BECK. The election was held November 6, 1927, but Mr. BECK did not come from his Washington home to vote, although it is reported on election night he attended a Washington dinner party.

It is certainly germane to the issue before the House to discover, if possible, some reason for Mr. BECK—a man standing high in the legal profession and enjoying an enviable reputation as a constitutional lawyer—to attempt such a flimsy, loose, and unprecedented plan to gain a seat in this House. Let us remove the smoke screen which is prevalent all through Mr. BECK's testimony and argument and try to find some reason. It is a known fact that Mr. VARE in 1926, then the Representative of the district Mr. BECK now represents, was a candidate for the United States Senate, and on November 2 of that year was elected to the United States Senate. Difficulty in sustaining his right to a seat in the United States Senate was anticipated, and Mr. BECK during the year 1926 must have been counseling and advising Mr. VARE, because in that year Mr. BECK published his book entitled "The Vanishing Rights of the States." It takes but a child to read this book and discover it to be nothing but a brief in behalf of Mr. VARE. It is interesting also to know that the morning after the election in Philadelphia, at which Mr. BECK did not vote but was elected, that he issued from his Washington office a statement to the press, declaring the Philadelphia election has "vindicated Mr. VARE."

Our familiarity with developments in the VARE case before the Senate during the present session of Congress, and the knowledge that Mr. BECK is still chief counsel for Mr. VARE, coupled with the prior association I have attempted to discuss, presents most forcibly reasons as to why Mr. BECK so hastily attempted to secure the status of an inhabitant of Pennsylvania, and later a Representative from a boss-ridden district in Philadelphia, where his election was at the will of his client and the vote so certain and meaningless from a personal standpoint that he himself did not take the time to journey from his real residence and habitation in Washington to participate therein.

The doctrine of State's rights is not involved in this controversy. However, I am not surprised it is brought forth, because in Mr. BECK's desperation, he, like a drowning man grabbing at a straw, seeks to maintain his rights through the help of every conceivable line of reasoning. It is doubtful if Mr. BECK, when he penned his work, *The Vanishing Rights of the States*, expected the issue of State's rights to be presented in a case such as his personal claim for a seat in this House now presents, for he says in that book (p. 49):

This provision (speaking of the section of the Constitution designating each House as the judge of the qualifications of its Members) unquestionably invests each House with the right to determine whether a man who claims to have been elected to either House was in fact elected, and if so, whether he possesses the requisite qualifications, but these qualifications are obviously those which have already been prescribed in the Constitution as to age, the period of his citizenship, and the fact that he is an inhabitant of the State which he seeks to represent.

Was Mr. BECK at the time of his election an inhabitant of the State of Pennsylvania in the sense that the law requires?

Paragraph 2 of section 2, article 1, of the Constitution provides as follows:

No person shall be a Representative who shall not have attained the age of 25 years and been 7 years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

It is the last part of the foregoing paragraph of the Constitution which this House is called upon to interpret at this time. The answer given by the House to-day is, therefore, one of national policy and of extreme importance.

The majority report in this matter, discussing the aforesaid constitutional provisions of page 4 of that report, says:

To determine whether the facts applicable to the case of Mr. BECK places him within the meaning of the framers of the Constitution in their use of the word "inhabitant," it is of the greatest importance to consider the debate which occurred at the time this provision was adopted.

I quote this because the majority report recognizes the fact that in disposing of Mr. BECK's rights the word "inhabitant" must not be too strictly construed, but that the intent and purpose thereof as disclosed by the debate upon that provision as contained in the Madison Papers be considered. These debates, as furnished us by Mr. Madison and set forth to some extent in the committee reports and in Mr. BECK's brief, are very interesting; but as they are all used finally by Mr. BECK as a basis for the argument that Washington and Franklin were not inhabitants of Virginia and Pennsylvania, respectively, unless he, Mr. BECK, is regarded by the Members of this House as an inhabitant of Pennsylvania, I ignore that argument, because obviously it contains no merit. This House has to determine whether Mr. BECK was an inhabitant of Pennsylvania in a sense that the Members of this House approve, and I can not conceive of the issue being dis-

posed of upon party alignment or personal prejudice. It should be met in fairness and in furtherance of the commonly accepted understanding of the people of this country as to the status of citizenship a Representative in this House should enjoy. Mr. BECK is most desperate in his own behalf in this case. It is astounding (in view of what I shall say hereafter), to read on pages 5 and 6 of his brief the following language:

You will thus see that the convention divided upon the use of the word "resident," thereby meaning a stricter physical presence, and "inhabitant," thereby meaning a member of a political community. It can not be questioned that the word "resident" was a stricter term, for it imported the idea of containing physical presence.

If, however, as I shall argue, to be an "inhabitant" referred not to physical presence but to a political status, he could not, when elected, be an inhabitant of the State unless he had previously accepted by birth or adoption, as a member of that political community.

Moreover, it is significant that the Representative was to be for the State, and not of the district, which in itself excludes this idea of neighborhood and of physical presence in that neighborhood. This indicates that they had in mind by selecting the word "inhabitant" a political status, and not a physical presence in a particular locality.

\* \* \* And yet the Constitution provided that the people of Pittsburgh might, if they chose, select as their Representative a citizen of Philadelphia who had never lived in their midst, and whom, personally, none of them ever knew. In fact, all of the 35 Members of the Pennsylvania delegation could, if the people of Pennsylvania so elected, be selected from the residents of one particular district even at this time.

Further quoting, page 13:

What they [framers of the Constitution] wanted to do was to lay down a rule that would be easily susceptible of application. In this they wholly failed, if by "inhabitant" they meant resident in the physical sense.

Further quoting, page 15:

Having thus given my interpretation of the Constitution, which at least has the advantage of being practical and reasonable and not general and indeterminate—then I may add that it at least has the advantage of the sanction of history—it is not necessary to say much in applying it to the facts in my case.

Further quoting, page 16:

Where I purchased and maintained a home, by the maintenance of a house in Washington, meaning thereby a legal residence in Washington, has never been regarded as an abandonment of the right to retain or acquire the rights of citizenship in one of the States.

I think all of us will admit that inhabitancy and citizenship and residence is largely a question of intention on the part of the individual. At the same time it is admitted with equal force that such intention is always gathered from the facts and not by some secret resolve on the part of the individual. It is an insult to the intelligence of this House to argue from the facts presented in Mr. BECK's behalf that he was a bona fide inhabitant of Pennsylvania at the time of his election. Aside from the secret resolve on his own part, which he himself now says he possessed to become an inhabitant of Pennsylvania, the record presents nothing of force and merit to his advantage.

May I have two more minutes?

Mr. BROWNING. Mr. Speaker, I yield the gentleman two additional minutes.

Mr. BACHMANN. Will the gentleman yield?

Mr. COLE of Maryland. Not at this time. I have no doubt had some hack politician instead of a man of Mr. BECK's standing attempted a trick of this kind, we would have been enjoying the mastery and sound interpretation of our Constitution by Mr. BECK protesting against the assault upon the Constitution which such a case would have presented.

I recall on one occasion, before the Supreme Court of the United States, a certain lawyer of recognized ability was presenting his argument and in doing so submitted certain legal propositions as being sound and applicable to his case. He was interrupted, as I recall, by Justice Holmes, with this remark, "Mr. (Blank), the reasoning you have just advanced is directly contrary to that which you state in your work on *Pleading and Practice*." The lawyer answered, "If that is the case, then my book is wrong." It is needless for me to say that the court sustained the authority in this great lawyer's book, which was, of course, his sound, sane, and real interpretation of the law and not that which happened to fit the particular case he was arguing at that time. Mr. BECK, you know, is the author of a very delightful book entitled: "The Constitution of the United States." It was published in 1924. As a caption to chapter 10, page 124, he places these words from Lowell:

Once to every man and nation comes the moment to decide,  
In the strife of truth with falsehood, for the good or evil side.

Bearing in mind what I have heretofore said and supplementing that with the knowledge you possess of Mr. BECK's argument and the effort of the majority report in this matter to sustain his right to a seat in this House, see if you can reconcile that attitude and that interpretation of the Constitution with Mr. BECK's own language in the very wonderful work by him which I have just quoted. On page 281 we find Mr. BECK discarding as follows:

Lord Brunnel then suggests that the governmental institutions of England and France give a greater opportunity to public service than America. Unquestionably, our institutions, with their tendency toward localization, do not make for national leadership. For example, in England a man can run for Parliament in any district. Even if defeated in one district he may stand for another seat, but in America a man can not run for Congress unless he is a citizen of the State in which he is situated; and while in theory, if a Pennsylvanian he can be a candidate for any congressional district of that populace Commonwealth, yet in actual practice—because the habits of the people are always as much a part of its constitution as the written law—the opportunity to serve the Nation in the Halls of Congress is dependent upon the consent of the district of his residence.

[Applause.]

I might add that Mr. BECK is not alone in the foregoing interpretation of our Constitution as to the requirements of one seeking representation in Congress, for we find Beard, on American Government and Politics, page 232, expressing a similar view. I find comfort and satisfaction in the position I have taken in this controversy from the language of the Court of Appeals of Maryland, the State I represent. Naturally there is confusion from time to time as to the right of certain residents of the District of Columbia temporarily residing in Maryland, voting there. Permit me to quote therefore the language of Justice Bryan in the case of *Thomas v. Warner*, Eighty-third Maryland, pages 19, 20, and 21:

Warner was undoubtedly a resident of Washington from 1885 to 1892. It was in his power to remove his residence to Maryland if he thought proper to do so. It was a very easy thing to do. If he had broken up his establishment in Washington, abandoned his residence there, and made his home in Montgomery, there could have been no question about the matter. But sometimes the change of residence can not be proved by clear and unambiguous evidence. It must, however, always appear that the former residence has been abandoned. There must be an actual acquisition of a new abode; and in the case of a married man the settlement of the family there with all the incidents and associations belonging to a home according to their circumstances. The idea of residence is compounded of fact and intention; to effect a change of it there must be an actual removal to another habitation, and there must be an intention of remaining there. It is not required that the purpose to remain shall be unalterable; for a person may change his residence whenever his wishes or his interests may induce him to do so. But there must be an adoption of the new abode as a place of fixed present domicile; it would ordinarily be the "center of his affairs," and the place where the business of his life was transacted. Of course, no one thinks that a man is obliged to remain at home as if he were a prisoner. His business might require him to be absent on frequent occasions for longer or shorter periods. But his home is the place where he and his family habitually dwell; which they leave for temporary purposes, and to which they return when the occasion for absence no longer exists. \* \* \*

We have seen that Mr. Warner's election to change his residence would not be sufficient without making the new habitation a place of fixed present domicile. Now, we see in the evidence no change in the course of his life in Washington after he purchased the land and built the house in Montgomery. He continued to live at his former dwelling and, as far as we can see from the evidence, under the same conditions and circumstances. He paid taxes on his personal property in the same way as formerly, as only a resident is required to do; and there is no external mark or indication which would designate him as a transient dweller or sojourner. Although he and his family paid visits to his country house, we have seen that such visits were by no means inconsistent with a residence in Washington. \* \* \* Judge Story tells us that: "In a strict and legal sense that is properly the domicile of a person where he has his true, fixed, permanent home and principal establishment, and to which, whenever he is absent, he has the intention of returning (*animus revertendi*). We find it impossible to infer that these conditions are fulfilled in the case of the Montgomery house."

This House is one of the most precious instruments of our Government, and I for one believe the good people of this country intend that its membership shall in every way respect the sane, common-sense construction of paragraph 2, section 2, Article I, of the Constitution, and comply with its provisions before they should knock at the doors for entrance, and above all else before they should attempt to hold a seat in this House.

Sad and unfortunate as it may be in the case of Mr. BECK, a man who has served this Government; a man who at a time when his better judgment was not influenced as it evidently has been since 1926, gave to us his splendid work on the Constitution from which I have quoted; and a man who necessarily stands high in the legal profession of this country, of which I am a member. I hope the intelligence of this House will assert itself to-day and, free from party alignment, political affiliation, stamp its disapproval upon the manner in which Mr. BECK has gained his seat on this floor. It is a sad spectacle to find a living being serving as a pallbearer at the funeral of his own reputation, but to present that commitment to Mr. BECK is in my judgment our solemn and binding duty.

The SPEAKER. The time of the gentleman from Maryland has expired.

Mr. VINCENT of Michigan. Mr. Speaker, what is the situation with respect to the time?

The SPEAKER. The gentleman from Michigan has 22 minutes remaining and the gentleman from Tennessee 28 minutes.

Mr. BROWNING. Mr. Speaker, I would like to inquire if that is not a wrong check of the time? I have used only 47 minutes.

The SPEAKER. The Chair is informed by the time clerk that that is correct.

Mr. BROWNING. Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania [Mr. KENT].

The SPEAKER. The gentleman from Pennsylvania is recognized for 28 minutes.

Mr. KENT. Mr. Speaker, with the permission of the Speaker and Members of the House, this House has an unusual and extraordinary opportunity of reestablishing and reaffirming a precedent in this case which has come down from the very foundation of the Government; and in this connection may I call attention to the fact that the Elections Committee was the first committee that was appointed by the First Congress. So, we have the extreme pleasure of participating before the first committee that was ever established by the Congress of the United States, which has always been extremely jealous of its dignity and of its ability to control the proceedings of the House of Representatives, according to the precedents of the House itself.

Somewhere throughout the arguments in some of the precedents it was endeavored to be established that upon this question of inhabitancy, or any other question affecting the qualifications of Members of Congress, the Congress should leave the matter to the particular States from which a representative claimed a seat, in order that that particular State should itself fix what it believed was the proper rule affecting inhabitancy. But I do not believe that it will be even slightly contended that the State, or any State of the Union, has, under our Constitution, any right to fix the qualifications for a Representative.

The qualifications, of course, are fixed in the Constitution, and by a separate section of the Constitution, only the time and the manner and the place of holding elections are left to the States themselves.

Therefore, in the principal case which has come down to us, the Congress at the very outset called attention to the fact that it was jealous of its jurisdiction, and that it was the exclusive judge in determining the qualifications of its Members.

Before going into an analysis of the facts, as I will read them in chronological order, I may again state what the minority leader stated in bringing this matter to the attention of the committee.

No possible political advantage can be gained in this matter by any party now represented in this House of Representatives. Numerically we all understand how the great political parties are represented in this House. We also understand, from common knowledge, that the minority in this House could not possibly procure a seat if this matter were decided adversely to the sitting Member. By a long line of precedents it has been definitely established that even though the gentleman who received the second highest number of votes in this matter were contesting, he could not possibly be entitled to this seat if Mr. BECK were held to be disqualified.

So, from the first congressional district of Pennsylvania, if Mr. BECK is not qualified to sit, unquestionably some one of the same political faith will succeed him, and no party advantage can therefore be obtained by the minority in this House; and by reason of the minority now existing, no party advantage can be obtained by the majority in this House.

The second section of Article I of the Constitution provides—and in order that it may be fresh in our minds I will read it now:

The House of Representatives shall be composed of Members chosen every second year by the people of the several States and the electors in each State shall have the qualifications requisite for electors of the

most numerous branch of the State legislature. No person shall be a Representative who shall not have attained the age of 25 years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

The facts are as follows:

1. JAMES M. BECK was born in Philadelphia on July 9, 1861, and was educated in the public schools there and later in Moravian College at Bethlehem, Pa.

2. In 1884 he was admitted to the Philadelphia bar.

3. His statement read in the record from the printed statement released for publication January 7, 1928, is silent upon the fact that in the first term of President Cleveland he was appointed assistant United States district attorney for the eastern district of Pennsylvania and served in that capacity for four years. (See p. 38 of hearings.)

4. As the result of presidential appointment of President Cleveland in the latter's second term, Mr. BECK served for four years as United States district attorney for the same district.

5. In 1900 he was appointed Assistant Attorney General by President McKinley, moved to Washington, retained his voting residence in Philadelphia, and resigned that position in 1903. (See p. 38.)

6. At the age of 42 Mr. BECK went to New York in 1903 to practice law in order to secure a competence. (See p. 39.)

7. He remained in New York until November, 1920. (See p. 39.)

8. He owned at different times two homes in New York City, both of which were sold at or about November, 1920. (See p. 39.)

9. He purchased a property in Sea Bright, N. J., about 25 years ago, owning the fee simple. He is still possessed of the fee-simple title to that real estate.

10. He voted in New York up until the time of his removal from that State.

11. He paid personal-property and real-estate taxes in Sea Bright, N. J., in 1921 and having removed to Washington was qualified to vote in New Jersey in 1921, and did then and thereafter, until 1926, at least, maintain intentionally a voting status in New Jersey.

12. He was in a similar position in 1922 and voted in Sea Bright, N. J., in the congressional elections of that year.

13. He paid personal-property and real-estate taxes in Sea Bright, N. J., in 1923 but failed to vote that year.

14. He paid personal-property and real-estate taxes at Sea Bright, N. J., in 1924 and voted by mail, as did his wife, at Sea Bright, N. J., in the presidential elections of that year.

15. He paid personal-property and real-estate taxes at Sea Bright, N. J., for 1925.

16. He paid personal-property and real-estate taxes at Sea Bright, N. J., for 1926.

17. He paid personal-property and real-estate taxes at Sea Bright, N. J., for 1927.

18. The Sea Bright, N. J., property is a large, handsome, and expensive property on the ocean front. Mr. BECK rented that property and had it for sale until the summer of 1927, and in that summer he withdrew the property from sale and used it himself.

19. The Sea Bright, N. J., property is in the custody of the caretaker, who lives upon it, and he together with his wife are qualified voters of New Jersey.

20. After the presidential elections in 1924 in which Mr. and Mrs. Beck voted, no other acts were performed by them until 1926 showing they were not entitled to vote in the State of New Jersey nor showing withdrawal of claims to voting privileges in that State.

21. In November of 1920, being assured that he would be connected with the Harding administration in some capacity, he sold his property in New York and acquired, about November, 1920, the fee simple at 1624 Twenty-first Street NW., in Washington, D. C. He resided in Washington from November, 1920, until June of 1921 without any official connection with the United States Government.

22. He retained his law office in New York City from November, 1920, up to the time he became Solicitor General in June, 1921, by President Harding's appointment.

23. He still owns that property in Washington, D. C. (See p. 40.)

24. In 1925 he resigned as Solicitor General and opened a law office in the Southern Building in Washington, D. C. (See p. 65.)

25. He is now, and was when elected to Congress, residing principally and exclusively at 1624 Twenty-first Street NW., Washington, D. C., without change of status which began in November, 1920, excepting that he in May, 1925, long prior to his election to Congress, opened a law office in the Southern Building in the National Capital.

26. He has no law office in Philadelphia, having ceased to practice there in 1900, and has nothing more in that city than an alleged voting residence acquired through the execution of an alleged lease on July 6, 1926. (See p. 43.)

27. Mr. BECK is married and has two children. Both children are in Europe and he resides with his wife at his Washington address, excepting that in the summer of 1927 he resided with her at Sea Bright, N. J.

28. He is associated in the law practice in Washington, D. C., with several other lawyers in the same suite of offices, and department records show that these lawyers practice before all governmental departments.

29. His name appears in the telephone book in Washington, D. C., as a resident at 1624 Twenty-first Street NW. and as an attorney in the Southern Building, and he maintains telephones at both places.

30. His automobiles are registered in Washington, D. C., and he never had an automobile registered or licensed in the State of Pennsylvania. (See p. 66.)

31. The home in Washington, D. C., is large and commodious, containing on the ground floor leading from Twenty-first Street a reception room, a den or office in which Mr. BECK spends some of his time with some of his books; on the second floor there are many books in the large library, sitting room, reception room, dining room, and other rooms. On the next two floors there are rooms for Mr. BECK's family, guests, and servants. There are four servants in the Washington home and a chauffeur who operates two of Mr. BECK's automobiles which are in operation and cares for an additional one not in operation. (See pp. 64-65.)

32. Mr. BECK has been for his entire lifetime a voracious reader and has written several books. He has, according to his estimate, a large comprehensive library of several thousand volumes, covering a wide variety of subjects.

33. In Philadelphia he has no books, estimated by himself at less than half a dozen.

34. According to his own statement, all that he holds dear in life, including his books, furnishings, works of art, and things of like character, are in his Washington home.

35. At 1414 Spruce Street, Philadelphia, there is an apartment house known as the Richelieu, partly owned and altogether controlled by Albert M. Greenfield, Philadelphia real-estate operator, prominent in organization politics in Philadelphia.

36. On July 6, 1926, a lease was alleged to have been entered into between Greenfield and Mr. BECK for two rooms, kitchenette, and bath on the second floor of that apartment house.

37. In this apartment Mr. BECK has never eaten a meal. (See p. 59.)

38. According to his claim, his sister resides there almost continuously, and when she occupies it he himself does not sleep there. Since she occupies the same continuously, he does not sleep there except perhaps rarely.

39. The apartment contains one bedroom.

40. The janitor of the apartment, admittedly without credibility, stated on one occasion that he had seen Mr. BECK in the apartment house only three times in 1927 and about 15 times from July, 1926, to the present time. He was friendly to Mr. BECK on the stand.

41. After having used the apartment himself, he turned the same over during a part of 1926 for the temporary use of a Mr. Ackerson, who held a position with the Sesquicentennial Exposition at Philadelphia.

42. Mr. BECK had not and has no clothes in that apartment, nor has any other member of his family except perhaps his sister. His clothes are taken in and out of the apartment only when he visits the same. (See p. 59.)

43. He has bank accounts in Washington, New York, Philadelphia, London, Paris, and Geneva.

44. Up to the present time he has paid only 25 cents in taxes in the State of Pennsylvania since his alleged removal back to Pennsylvania.

45. He has not submitted himself to taxation in 1926 and 1927, although claiming to be an inhabitant of Pennsylvania and subject to its laws.

46. He failed to submit himself to the taxing power of Pennsylvania by making full disclosure of taxable property in that State when requested so to do at or about the time of his election and by default after the election he was arbitrarily assessed at \$20,000. At no time did he perform any legal duty requiring him to submit himself to taxation.

47. At the time of his election and with his knowledge he was a nonresident member of the Art Club, Philadelphia, and the Franklin Inn Club, of Philadelphia, and at the same time he was a resident member of the Metropolitan Club, of Washington, D. C. In the Art Club, of Philadelphia, a nonresident

member is one who resides more than 50 miles beyond the city. In the Metropolitan Club, of Washington, a nonresident member is one who resides 30 miles beyond the city. (See p. 70.)

49. Mr. Beck knowingly remained upon the nonresident members' list of the Art Club of Philadelphia until January 1, 1928.

50. During 1926, up to his election on November 8, 1927, he registered at hotels in Philadelphia without exception as a resident of Washington, D. C. After his election in 1927 he, without exception, continued to register at Philadelphia hotels as a resident of Washington, D. C.

51. In his correspondence with the Union League of New York in ordering cigars and directing his bills to be sent to certain designations Mr. Beck always referred to "my residence at 1624 Twenty-first Street NW., Washington, D. C." and "my Sea Bright, N. J., home." On one occasion, in a lengthy correspondence extending through 1926, 1927, and 1928, he directed cigars to be sent to the Art Club at Philadelphia. At no time did he refer to a home residence, habitation, or domicile at 1414 Spruce Street, Philadelphia.

I have read the clause in the Constitution which refers to qualifications for a Representative in Congress. I will ask the House to bear with me while I read that part of the clause in the Constitution which fixes the qualifications for Senators.

On page 12 of the House Manual and Digest we find the following:

No person shall be elected a Senator who shall not have attained to the age of 30 years and been 9 years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

It will be noted that the Constitution retained the word "inhabitant" in both classes, fixing qualifications for both branches of the Congress.

Then, in fixing the qualifications for the Executive, on page 48 of the House Manual, we find the framers used the following language:

No person except a natural-born citizen or a citizen of the United States at the time of the adoption of this Constitution shall be eligible to the office of President. Neither shall any person be eligible to that office who shall not have attained to the age of 35 years and been 14 years a resident within the United States.

It will there be noted that the framers used the word "inhabitant" of particular States when they fixed qualifications for both branches of the National Legislature; but when fixing the qualifications for President, intentionally and in order to care for certain persons like Alexander Hamilton and others, they fixed 14 years as the period of residence, but used, distinctly and unqualifiedly, the word "resident" instead of the word "inhabitant," so that it would not be necessary for the President to be at the particular time an inhabitant of a particular State, but he could be a resident out through the United States.

In the twelfth amendment, in article 12, the following language is again significantly used. This is with regard to the meeting of the Electoral College. It is found at page 78 of the House Manual.

The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom at least shall not be an inhabitant of the same State with themselves.

Again designedly using the word "inhabitant."

But, very significantly, in our Constitution, in article 14, a great many of our difficulties have been swept away when we come to define the word "inhabitant" with regard to the qualifications for membership of the House of Representatives. There citizenship is defined, on page 82 of the House Manual and Digest:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States of the State wherein they reside.

So it would appear, as we go through the different sections of the Constitution, that the framers were endeavoring to define citizenship. They were not insisting that a citizen be an inhabitant of a State. They did not insist that the President should be a specific inhabitant of a State, or any particular State of which he was an inhabitant at the time of his election, but that he needed to be only 14 years a resident of the United States.

But, significantly—so significantly that it must challenge the attention of the committee—when they fixed the qualifications for Members of the National Legislature they insisted that they be inhabitants of the State from which they came when elected.

In a discussion of this character it is well to go to the fountainhead of our knowledge upon the subject, and I therefore quote from volume 3 of Documentary History of the Constitution, December, 1899, beginning on page 471. On Wednesday,

August 8, 1787, and, of course, prior to the report of the committee on style the identical article and section in question were before the convention for consideration. We find the following language on the above page:

Mr. Sherman, moved to strike out the word "resident" and insert "inhabitant," as less liable to misconstruction.

Mr. Madison 2d ed the motion. both were vague, but the latter ("less liable" stricken out) least so in common acceptation, and would not exclude persons absent occasionally for a considerable time on public or private business. Great disputes had been raised in Virga. concerning the meaning of residence as a qualification of Representatives which were determined more according to the affection or dislike to the man in question, than to any fix interpretation of the word.

Mr. Wilson preferred "inhabitant."

Mr. Gov. Morris was opposed to both and for requiring nothing more than a freehold. He quoted great disputes in N. York occasioned by these terms, which were decided by the arbitrary will of the majority. Such a regulation is not necessary. People rarely chose a nonresident—it is improper as in the 1st. branch, the people at large, not the States are represented.

Mr. Rutledge urged & moved that a residence of 7 years shd be required in the State Wherein the Member shd be elected. An emigrant from N. England to S. C. or Georgia would know ("as" stricken out) less of its affairs and could not be supposed to acquire a thorough knowledge in less time.

Mr. Read reminded him that we were now forming a Natl Govt and such a regulation would correspond little with the idea that we were one people.

Mr. Wilson enforced the same consideration.

Mr. MERCER. Such a regulation would present a greater alienism among the States than ("n" written upon "t") existed under the old federal system. It would interweave local prejudices & State distinctions in the very Constitution which is meant to cure them. He mentioned instances of violent disputes raised in Maryland ("under these" stricken out) concerning the term "residence."

Mr. Elseworth thought seven years of residence was by far too long a term but that some fix term of previous resident would be proper. He thought one year would be sufficient, but seemed to have no objection to three years.

Mr. Dickenson ("s" effaced) proposed that it should read inhabitant actually resident for ——— year. This would render the meaning less indeterminate.

Mr. WILSON. If a short term should be inserted in the bank, ("it might" stricken out) so strict an expression might be construed to exclude the members of the Legislature, who could not be said to be actual residents in their States whilst at the Seat of the Genl Government.

Mr. MERCER. It would certainly exclude men, who had once been inhabitants, and returning from residence elsewhere to resettle in their original State; Although a want of the necessary knowledge could not be in such case be presumed.

Mr. Mason thought 7 years too long, but would never agree to part with the principle. It is a valuable principle. He thought it a defect in the plan that the Representatives would be too few to bring with them all the local knowledge necessary. If residence be not required, Rich men ("may" stricken out) of neighboring States, may employ with success the means of corruption in some particular district and thereby get into the public Councils after having failed in their own State. This is the practice in the boroughs of England.

On the question for postponing in order to consider Mr. Dickinson's motion.

N. H. no. Mas. no C<sup>t</sup> no. N. J. no. Pa no. Del. no. Md ay. V. no. N. C. no. S. . ay. Geo. ay.

On / question for inserting "inhabitant" in place of "resident"—Agd to mem. com.

From the foregoing it would clearly appear that the founders of the Constitution had definitely in mind a case exactly similar to the present one. If there was one thing that the founding Fathers desired to prevent in their new experiment upon this hemisphere it surely was the rotten borough system of Great Britain. The entire tenor of the debate just above cited demanded that a Representative should come to the seat of government from the State in which he was a bona fide inhabitant, not a resident only and mere voting citizen, nor one having temporary or actual or permanent domicile for purposes of taxation and other purposes for the exercise of the right of citizenship. But it was desired that he should be an actual inhabitant completely identified with the State which he chose to represent. He was not to be a person, rich, or poor, coming into one State from another in which he was an inhabitant and then attempting to seek a place in the public councils of one State after having failed in his political ambitions elsewhere.

This view was debated in the most famous and best considered case upon the subject in the history of our legislative procedure, namely, the case of Mr. John Bailey, claiming to be entitled to

a seat in the Eighteenth Congress from the State of Massachusetts. Before the House passes definitely upon this question it would be well for every Member to read the *Annals of Congress*, volume 42, in subvolume 18, part 2, 1824, Eighteenth Congress, first session, beginning at page 1794. This case has been very thoroughly considered in *Hinds' Precedents*, volume 1, published in 1907, beginning at page 419. I deem this case to be of sufficient importance that I quote copiously from it. That case in the Eighteenth Congress was decided without party lines being taken into consideration. We are fortunate in this regard because the House of Representatives of the Seventieth Congress has an unusual opportunity of laying down and fixing a precedent. Mr. Bailey opened the debate (see p. 1794, above quoted) and admitted practically all of the facts showing conclusively that on October 1, 1817, while a resident of Massachusetts, he was appointed as a clerk in the Department of State. He immediately repaired to Washington and entered upon the duties of his position and continued to hold the position and reside in Washington until October 3, 1823, when he resigned the appointment.

It did not appear that he exercised any of the rights of citizenship in his district and there was evidence to show that he considered Massachusetts as his home and his residence in Washington only temporary. It was shown that Mr. Bailey resided in Washington only temporarily. It was shown that Mr. Bailey resided in Washington at a public hotel with occasional absences on business to Massachusetts until his marriage in Washington, at which time he took up his residence with his wife's mother. The election at which Mr. Bailey was chosen a Representative was held September 8, 1823, at which time he was actually residing in Washington in his capacity as a clerk in the State Department. He actually had, however, a large law library in the State of Massachusetts. He never claimed any other State as a place of inhabitancy, residence, domicile, or citizenship. The House had only to deal with the question of his status in the State of Massachusetts and District of Columbia (see p. 1799):

The report proceeds to state "that the true theory of representative government" requires that the representative be "selected from the bosom of that society which is composed of his constituents"; and that he should possess a knowledge of their character and political views, and for that purpose should "mingle in their company and join in their conversations"; and "that he should especially have that reciprocity of feeling and identity of interest which exist only among members of the same community." This is a beautiful theory, but happens to make no part of our Constitution, and therefore has no application to the case in question. We are all prone to fancy to ourselves what ought to be a rule of action, and thence to infer that such is in fact the established rule. This is an error. Our inquiry now is, What is the Constitution? Not, what ought it to be? That the above picture is ideal, and unsupported by the Constitution, is easily shown.

If the people of a country, by common consent, consider a person as an inhabitant of a State, though he is temporarily absent in public employment, this must be received as the true meaning of the word, even if there were not a single formal decision on the point. Such general practice shows what is the common-sense interpretation of the word, and is conclusive of the question.

It was further argued:

What are the facts in the case before us? The Member is a native of Massachusetts; he is intimately acquainted with the policy and interest of that State; he is presumed to participate in the feelings of his immediate constituents; he has been reared up in the bosom of that society, where his father still resides, and is bound to them by the strongest ties; he has been honored, on several occasions, with a seat in their State legislatures. A few years past, he was appointed to discharge the duties of a clerk in the State Department, within this District; that trust was accepted, with the positive declaration that he did not intend to renounce his native State; and that Massachusetts was his home. During his residence here, he boarded at a tavern, until within some few months previous to his selection, and occasionally returned to Massachusetts. He purchased no property here; and that which he possessed consisting of near 800 volumes was left in that State. He has declined all participation in the concerns of this District. His constituents and himself had intercourse with each other, and understood, much better than we can know, the relations which existed between them. Considering him a citizen and inhabitant of their State, they called upon him to know whether he was willing to serve them in Congress. He yielded to their solicitation, and was elected by a majority of all the votes in the district. No person has claimed his place. But his eligibility has been contested, in a remonstrance signed by 26 persons only, and inclosed under a blank cover, to a Member of Congress, and we are called upon to vacate his seat.

Against the seating of Mr. Bailey it was argued as follows:

Let us discard, sir, these subtle refinements, which only lead us from perplexity to absurdity, and construe this Constitution as we should,

according to the plain common acceptance of words. It is a question of common sense merely. The gentleman has resided in this city more than seven years; his family is here; his dwelling place is here; it is his home. He is eligible to any office under the corporation of the place—a subject in the District—liable to jury duties. I repeat the question which I put to the committee before. It has not yet been answered. If this District was entitled to a Delegate in this House, whose qualification should be that he was an inhabitant of the District of Columbia, would he not be eligible to the place? Is he not now entitled to every privilege or right of an inhabitant of this District, be those rights what they may, civil or political? These questions must be answered in the affirmative; and unless it can be shown that he has a sort of double capacity, which may constitute him an inhabitant of two distinct places at one time, and furnish him with two different domiciles, he must be considered as an inhabitant of this District. When the nature of his rights may be here, or their extent, is a question of no importance. Be they greater or less, he is entitled to them, whatever they may be. It is enough for us that he has become an inhabitant of the District, and has lost his inhabitancy in Massachusetts, and is thereby rendered obnoxious to that clause of the Constitution which forbids his eligibility in that State.

A powerful argument was used on page 1838 relative to those who are inhabitants of the District of Columbia:

An inhabitant of one State is deprived of the right of being elected in all the other States. Is there any reason in the imagination of any part of the House why this District, or those who are inhabitants here, should be more highly favored and gifted with more unlimited privileges than the inhabitants of the States? Where, then, is the disfranchisement which has been so often complained of and resounded in this debate, and in what does it consist? The inhabitants of this District are, in this respect, on a perfect equality with all others. If they have not the right of sitting in this House as Members, the fault, if anywhere, is in the Constitution which has denied the District a representation because it is a union of the State and not of Territories.

See also the following, on page 1838:

If, by removing to this District, he loses his inhabitancy in his original State, it is his free act, and he must submit to the disability in return for the advantages, if any, which he may have supposed himself to acquire by changing his previous residence. The whole question, therefore, results in the inquiry whether the facts in the case do not show a change of domicile—whether, under all the circumstances existing in relation to the residence of the gentleman in this city, he must not be deemed to have been so established here as to create an inhabitancy in this District? Had his residence here been transient and not uniform; had he left a dwelling house in Massachusetts, in which his family resided for any part of the year; had he left there any insignia of a home—furniture or any property which usually accompanies a household establishment—all or any of these would be deemed indications that his domicile in Massachusetts was not abandoned. Instead of any indications of this nature we find him here for years, discharging the duties of an office permanent in their nature—establishing domestic connections in this city, and residing here with all the characteristics of a permanent inhabitant. Common sense seems to teach us that he is so; that he has emigrated from Massachusetts in search of better fortunes which perhaps he has acquired. In forming my opinion, sir, I disregard the declarations which have been occasionally expressed by him, that he considered Massachusetts as his home; that this city was a temporary residence. Every man doubtless intends to change his domicile when better prospects elsewhere are presented. It is probable he came here for the enjoyment of the public office which he has held, and that whenever it became convenient or necessary to leave it he intended to return to Massachusetts, unless he could more beneficially establish himself elsewhere. All these vague and contingent intentions are entertained by every man.

In a powerful argument, beginning on page 1838, Mr. Storrs uses the following language:

The circumstances of the case now before us call upon us to maintain with vigilance some of the most important principles of the Constitution—principles which were established for the preservation of the purity and independence of the House of Representatives. We are not only asked to allow a seat here to one whose inhabitancy is not bona fide among his constituents, but one who comes from the executive departments. If this District is to furnish Members for this House, it is the more dangerous if they are to be educated under the immediate eye of their political patrons. The framers of the Constitution intended that a Representative here should come from the bosom of his constituents; that he should live among them; be conversant with their feelings; their wishes, and their wants; that he should know their political principles, and be identified with the people whom he represents. They entertained no notions of that technical inhabitancy which has been set up here to fritter away the most salutary purposes of the Constitution. The example of England was before them where, under the form, though in mockery, of representative government, the Parliament was filled with placemen and pensioners. They never intended to turn the States of this Union into rotten boroughs or to make this

District the great and common borough of all the States. There is something so pregnant with mischief to the character of this House in the doctrines which have been advanced, and so threatening in its purity, that I feel as if, in giving up or relaxing the construction of this part of the Constitution, we give up the Constitution itself, or render it an idle mockery. If there is anything to be feared in this Government, it is the corrupting influence of patronage. The Constitution considers all placement of the Government as unfit to represent the people in the legislative department. I speak, sir, with no allusion to the gentleman whose seat is now questioned; but all history and experience, our observation of human nature, and our knowledge of the motives and springs of human action, warn us to look with jealousy to any interpretation of this part of the Constitution which shall approximate to a relaxation of its spirit and intention. If we sanction the principle that the incumbents of office here are to be universally eligible in the States, I beg, gentlemen, to reflect what an enormous and irresistible weight of influence may be brought to bear upon the State elections, to promote the views of government and fill this House with the creatures of executive power. The patronage of government in the States will be devoted to this end. The connections of men in office here are powerful and numerous elsewhere. The officers of your Government scattered throughout the Union are multiplying every day. Dependent on governmental favor, they naturally rally round the power which feeds them, and will be found subservient to its will. This vast machinery, when once organized and put in motion, will exercise a powerful control in the States, and the election will feel the worst of all influence in a free government. Candidates for this House, furnished from the departments here, will be supported by your marshals, judges, and hosts of customhouse and other executive officers of the States.

The Treasury of the Nation will sustain, through the dispensations of Executive bounty, this pernicious system. We have no reason to believe that, in all our future history, administrations may not be found which might avail themselves of such means to sustain their influence in this House. The only barrier to Executive power is here—its only effectual restraint is in preserving the identification of this House with the people and closing every avenue to the approach of Executive influence in our deliberations. Sanction the doctrine that the officers of the departments are eligible and we may find here, at some future day, a semiofficial cabinet, a bench of ministers—men who have merely laid aside the forms of office, but whose political feelings and partiality and obligations center in the Executive will; a packed Parliament—men who are taught to look anywhere but where they should look for support, to the approbation of their constituents. Why has the Constitution prohibited any officer of the Government from holding a seat in Congress? It is, sir, because they are presumed to be politically unfit for legislation—because the influence of patronage is often too strong to be resisted—because their interests and partialities are not in unison with the mass of the Nation; and because all experience has proved that they are the most pliant instruments of the power which supports them in office and dispenses the public emoluments.

Mr. Hall, of North Carolina, beginning on page 1854, argued as follows:

Gentlemen seem to have fallen into some strange hallucination on this subject. In maintaining their doctrine they undertake to subvert a plain and imperative requisition of the fundamental statute of this land, by applying to it, constructively, the principles of the common law of nations. Suppose that in some of the State courts any lawyer in a plain case of law and fact, a case where a statute applied explicitly to some crime, a case in which the evidence was completely made out and the law and the fact in entire unison—what would be thought, in such a case, of any lawyer who should attempt to overthrow, by applying to it the principles of the British common law from Blackstone, or by preaching a politico-moral homily from Paley and Beccaria? And, yet, it would be of a piece with what is now attempted.

Mr. Speaker, I have prescribed to myself a very plain and simple method of construing this instrument which I hold in my hand, the Constitution of the United States—a method which, if pursued with a view solely to the truth, will generally be right. It is, to take the plain vernacular meaning of the words in which any subject is couched, and endeavor, in their plain sense, to find what was the intention of its framers. Having to the best of my judgment done this, I adhere to that interpretation without attempting to bend or twist it to answer, by a strained construction, any other purposes which, were I to do, I should be guilty of treason against my understanding and my moral sense.

I have applied this rule to that part of the Constitution which says "that no person shall be a Representative who shall not have attained to the age of 25 years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen." From which, it appears to me, that the framers of the Constitution meant to exclude two orders of persons from the House of Representatives as Members—persons who are not citizens of the United States, and citizens who are habitual nonresidents of the States in which they are elected. So that the Constitu-

tion demands, in so many words, that to be a Representative it is not only necessary to be a citizen of the United States, but, in addition to this, a person to become so must live among those who are to become his constituents, evidently drawing a plain and marked line of distinction between citizenship and inhabitance.

Gentlemen fall into this error by confounding the abstract political right of citizenship with the act of inhabitance which the Constitution requires; but, sir, I consider them doubly disqualified from becoming Members of this House by habitual residence out of the State for which they were or might be elected (I know of no better definition of inhabitance than habitual residence; I would thank any gentleman for a better), and officeholding under the United States, which, so long as they continue to do, is a disqualification in the face of that part of the Constitution which requires that "no person holding any office under the United States shall be a Member of either House during his continuance in office"—showing clearly an intention to keep distinct and immiscible the executive and legislative functions of the Government; and, sir, to return to the gentleman from Massachusetts, I feel no hesitation in saying that his seat ought to be vacated upon this ground, if he labored under no other disability.

Hinds' Precedents, volume 1, beginning at page 420, digests the famous Bailey case in part as follows:

The committee comment upon the fact that the word "resident" had first been proposed but had been put aside for "inhabitant" as being a "stronger" term, intended to express more clearly their intention that the persons to be elected should be completely identified with the State in which they were to be chosen.

The word "inhabitant" comprehended a simple fact—locality of existence; that of "citizen" a combination of civil privileges, some of which may be enjoyed in any of the States of the Union. The word "citizen" might properly be construed to mean a member of a political society, and, although he might be absent for years and cease to be an inhabitant of its territory, his rights of citizenship might not be thereby forfeited. The committee quote Vattel and Jacob's Law Dictionary to show that the character of inhabitant is derived from habitation and abode and not from political privileges.

See also page 421:

The construction put on the word "inhabitant" by the various States was not particularly pertinent, as it might import a different sense in different States. The construction merely. Mr. Bailey's residence was in the District. He was eligible for office there. If the District were entitled to a Delegate in the House whose qualifications should be that he should be an inhabitant of the District, he would certainly be eligible for that place. Therefore he must have lost his inhabitancy in Massachusetts. So far as inhabitancy was concerned, the District stood on the same basis as the other Territories of the United States.

Also see the following:

An inhabitant of one State was deprived of the right of being elected in all the other States. Was there any reason why the inhabitants of the District should be more highly favored than the inhabitants of the States? It was inevitable that in moving from State to State political and even personal rights must suffer modification or extinction with the changed condition of law. So in moving to the District certain rights enjoyed in the States were lost. If the residence of Mr. Bailey here had been transient and not uniform, had he left a dwelling house in Massachusetts in which his family resided a part of the year, had he left there any of the insignia of a household establishment, there would be indication that his domicile in Massachusetts had not been abandoned. It had been argued that the expressed intention to return to Massachusetts should govern. But the law ascertained intention in such a case by deducting from facts. The danger of allowing the Executive to furnish Members of Congress from the public service was discussed at length. The committee did not contend that a Member must be actually residing in a State at the time of his election. Foreign ministers going abroad, but from the nature of the case precluded from becoming citizens of a foreign power or obtaining the rights of inhabitancy, did not lose their inhabitancy at home by absence.

It will be argued in behalf of the sitting Member that the case of Phillip B. Key is of importance (see Hinds' Precedents, vol. 1, p. 417):

As to his inhabitancy in the State, the committee report facts showing that Mr. Key was a native of Maryland and a citizen and resident of the State at the time of the adoption of the Constitution of 1787; that he was never a citizen or resident of any other of the United States; that in 1801 he removed from Maryland to his house in Georgetown, about 2 miles without the boundaries of Maryland, where he continued to reside until 1806, when, on September 18, he removed with his family and household to a partially completed summer home (intended for himself and not for an overseer), which he was building on an estate in Maryland bought by him in 1805, and which was part of an estate owned many years by Mrs. Key's family. Here he was residing October 6, 1806, the date of his election. On October 20, 1806,

he removed with his family and household to his house near Georgetown which he lived in until July, 1807, when they returned to the Maryland house and lived in and inhabited it until October 23, 1807. On that date they returned to the house near Georgetown, that he might attend to his duties in Congress. It further appeared that he had continued the practice of law in Maryland and had declined practice in the District of Columbia; and that in January, February, and March, 1806, he had declared that he intended to reside in Maryland, and that he bought the land with that intention. It was urged and admitted that the Maryland house was fitted only for a summer residence, and was much inferior to the house near Georgetown; and that the latter was left practically with its furnishings complete whenever the family went to Maryland.

But that case is so readily distinguished from the present one that it is amazing that the Key case should have been even referred to. First he was a native of Maryland. He was never a resident or citizen of any other of the United States. He moved into the District of Columbia. But at the same time he was constructing a summer home in the State of Maryland on his own property or at least the property of his wife. He was residing on that property on the date of his election. He continued the practice of law in Maryland and declined to practice in the District of Columbia. He bought 1,000 acres of land about a year before his election in the State of Maryland, declaring it as his intention to use it as his permanent residence. In the present case Mr. Beck left Pennsylvania in 1903 with the intention of securing a competence. He bought property in New York and voted there. He bought property in New Jersey and voted there. He established a law office in the District of Columbia and resides in that District, practicing law actively here and no other place, in law offices with a firm of lawyers which practices before the governmental departments in matters which have a direct and positive bearing upon the Treasury and governmental policies of the United States. His one act in Pennsylvania had to do with an attempt to establish a voting residence there, whereas the Constitution requires that he must be an inhabitant.

Another case that will be cited is the case of Charles H. Upton (*Hinds' Precedents*, vol. 1, p. 297). No case could possibly be a stronger one than the Upton case against the right of Mr. Beck to a seat in this body. Mr. Upton for 25 years prior to consideration of his case had been a freeholder in the State of Virginia. For most of the time he had been a resident and inhabitant of the county of Fairfax, where he and his family were domiciled. For some time prior to the month of November, 1860, the sitting Member had lived in Zanesville, Ohio, where he owned an interest in a newspaper and helped to conduct it. The committee was satisfied that shortly after the Ohio elections Mr. Upton had returned to the county of Fairfax, Va., where his family had remained and there was. From that time forward he continued to be a resident and inhabitant of the State of Virginia. In the present case Mr. Beck at no time disassociated himself or his family from the State of New Jersey or from the District of Columbia. He went to the State of Pennsylvania apparently, and his first entry into the civic life of that State appears to have been through a fraudulent registration on May 3, 1926. In no way has there been complete identification of Mr. Beck with the State of Pennsylvania. As we shall presently argue, he did not become a qualified voter of the State nor did he establish a bona fide residence there.

It is interesting to note that the case of Bayley against Barbour has been cited. It begins with section 435, on page 432, of volume 1 of *Hinds' Precedents*. At the time of Mr. Barbour's election from Virginia his wife owned real estate in the city of Alexandria. Barbour was a native of Virginia, had always been a citizen of that State, never claimed to have lived elsewhere in a permanent sense, and never exercised the rights of citizenship in any other State or Territory. In the present case Mr. Beck voted in New York and New Jersey for over 21 years, then established a law office in Washington, D. C., and continued at the time of his election and still continues to hold permanent residence here as well as permanent occupation as a legal practitioner. Barbour had his post office, business headquarters, and residence required by statute for service of legal process in Alexandria. He had a temporary winter residence in Washington, but also had a house in Alexandria, where with his family he was residing on the date of the congressional election at which he was elected. Service of process was also made upon him at Alexandria as president of a railroad company. When traveling away from Virginia he invariably registered himself as from Virginia. The House in that case took the same position as did the House in the Bailey case, when they said that Mr. Barbour was in point of fact before and at the time of his election an actual inhabitant of Virginia enjoying all the rights and subject to all the burdens as such.

It is also further remarkable that the case of *Eldridge v. Underwood* (vol. 2, *Hinds' Precedents*, p. 631) has been cited. An examination of the hearings as well as the debates show conclusively that at the time of the election the contestant was actually an inhabitant of Alabama and that his wife resided in Ohio temporarily only because of inability at that time to reside in Alabama.

Applying the foregoing precedents in the House of Representatives to the particular facts of this case, it is quite clear that Mr. Beck when elected was not an inhabitant of Pennsylvania, either actually or in the constitutional sense. The framers of the Constitution had clearly in mind a case exactly like the present, and therefore they had before them in the original draft the words "resident," "inhabitant," "voter," "occupant," and words having similar and cognate meanings. The original draft, without debate, had carried the word "resident," whereupon, after mature deliberation and without a dissenting voice, the word "inhabitant" was used in this particular clause. The word "inhabitant" then meant exactly what "inhabitant" means now. The States which had been raised up then still exist as States of the same, though enlarged, Federal Union. It was contemplated then, as now, that there were people residing in cities, towns, villages, and upon farms and plantations. A large number of the people in the Nation had been born in Europe and had cast their lots with the Colonists in the Revolution. The English common law had been transferred to America. The old English idea was, according to one text writer, that one of the best tests of inhabitancy in England in determining classifications under acts of Parliament was whether or not an owner, tenant, or occupant manured the land which he occupied and tilled. The theory was that permanency was evidenced by such action, that he who tilled and enriched the soil was an inhabitant, as against one who made barren the soil by temporary use and occupation, and so after many centuries the idea of permanency of occupation and habitual occupation came into use when the word "inhabitancy" was considered. It was conceded then that a man might reside temporarily in several places, but the place which he occupied with the greatest degree of permanency was the place in which he was an inhabitant. And so this theory concerning inhabitancy has become so fixed and determinate in all the law of every State that it is hard to believe that anyone could get another meaning out of it than actual, permanent, and habitual residence, and in addition thereto actual, permanent, habitual residence in a domicile in the place in which he claims to be an inhabitant. Black's Law Dictionary (2d ed., p. 625) defines the word as follows:

Inhabitant: One who resides actually and permanently in a given place, and has his domicile there. (Ex parte Shaw, 145 U. S. 444, 12 Sup. Ct. 935, 36 L. Ed. 768; The Pizarro, 2 Wheat. 245, 4 L. Ed. 226.)

The words "inhabitant," "citizen," and "resident," as employed in different constitutions to define the qualifications of electors, mean substantially the same thing; and one is an inhabitant, resident, or citizen at the place where he has his domicile or home. (Cooley, Const. Lim. \*600.) But the terms "resident" and "inhabitant" have also been held not synonymous, the latter implying a more fixed and permanent abode than the former, and importing privileges and duties to which a mere resident would not be subject. (*Tazewell County v. Davenport*, 40 Ill. 197.)

The latest authentic definition upon the subject is contained in *Corpus Juris*, volume 31, page 1194. The term "inhabitant" has been conceived to be entirely free from technicality and declared to have a known and universally accepted meaning, all agreeing in considering "inhabitant" as directly connected with habitation and abode. (*Spraggins v. Houghton*, 3 Ill. 377-397.)

On page 1195 of the same work we find the statement of the general law, both Federal, State, and municipal; "in law the term 'inhabitant' is used technically with varying meaning in respect to permanency of abode." It embraces locality of existence or fixed permanent home and excludes the idea of a temporary residence. All lexicographers distinguish an inhabitant as one who dwells in a place with the intention of making it his home and not a mere transient or temporary sojourner therein. The term embraces the fact of residence at a place with intent to respect and make it his home. The act and intent must concur and the intent may be inferred from declaration and conduct.

See note 86 at bottom of page 1195 of the same volume of *Corpus Juris*:

The Latin *habitare*, the root of this word, imparts by its very construction frequency, constancy, permanency, closeness of connection, attachment, both physical and moral, and the word "in" serves to give additional force to these senses.

Cases in practically all of the States of the Union are quoted to substantiate this doctrine and particularly do cases in Illi-

nois, Indiana, Alabama, Nebraska, Minnesota, Mississippi, New Jersey, New York, Pennsylvania, Texas, Michigan, Kansas, West Virginia, California, Missouri, and Tennessee stand out.

A very leading case is that of *Sharp v. Casper* (36 N. J. L. 387), in which the following language is used:

One who has an actual, but merely temporary, residence in a place is not in any proper sense an inhabitant of that place. An inhabitant of a town or ward is one who has his domicile there, his fixed habitation and home from which he has no present intention of removing.

See also the following:

Absence as affecting: Actual residence—that is, personal presence in a place—is one circumstance to determine the domicile or the fact of being an inhabitant, but it is far from being conclusive. A seaman on a long voyage and a soldier in actual service may be, respectively, inhabitants of a place, though not personally present there for years. It depends, therefore, upon many other considerations besides actual presence. Where an old resident and inhabitant, having a domicile from his birth in a particular place or country, the great question whether he has changed his domicile or whether he has ceased to be an inhabitant of one place and become an inhabitant of another will depend mainly upon the question, to be determined from all the circumstances, whether the new residence is temporary or permanent; whether it is occasional, for the purpose of a visit or of accomplishing a temporary object; or whether it is for the purpose of continued residence and abode, until some new resolution be taken to remove. If the departure from one's fixed and settled abode is for a purpose in its nature temporary, whether it be business or pleasure, accompanied with an intent of returning and resuming the former place of abode as soon as such purpose is accomplished; in general, such a person continues to be an inhabitant at such place of abode for all purposes of enjoying civil and political privileges and of being subject to civil duties. (*Sears v. Boston*, 1 Metc. (Mass.) 250, 251.)

And so all the States, as well as the higher courts of the United States, establish that an "inhabitant" is an habitual resident, and that he must have about him a degree of constancy, permanency, and steadiness in an actual domicile in the place of abode.

Therefore the framers of the Constitution recognize clearly the distinction between the words "inhabitant," "resident," "citizen," and "voter," because in the particular clause in question they use the words "citizen of the United States" in fixing the length of time of residence and the word "inhabitant" prescribing qualifications with regard to actual, habitual residence. This is further signified, since in section 2 of Article I the word "inhabitant" was used fixing the qualifications of a Representative, and in section 3 of Article I they also used the word "inhabitant" when fixing the qualifications of Senators, and in section 1 of Article II, clause 4, the framers establish that the President must merely have been a resident for 14 years within the United States, but, of course, it was found unnecessary that he be a natural-born citizen. In the twelfth amendment to the Constitution it is specifically provided that the presidential electors shall vote by ballot for President and Vice President, but one of them, at least, could not be an inhabitant of the same State with such electors. The fourteenth amendment specifically defines "citizenship" as follows:

All persons born or naturalized in the United States and subject to jurisdiction thereof are citizens of the United States and of the State wherein they reside.

Therefore the framers of the Constitution clearly and concisely gave to the word "inhabitant" a meaning which they expected would run without interruption through the course of existence of the Republic which they were constituting. A Representative and a Senator had to be an inhabitant of his State, but the President needed only to have been a natural-born citizen or a citizen at the time of the adoption of the Constitution and a resident for at least 14 years.

JAMES M. BECK was not an habitual resident nor an inhabitant of Pennsylvania in November, 1927, nor was he a bona fide resident of that State. Furthermore, he was not even a qualified voter.

Under the fourteenth amendment, of course, Mr. BECK was then and is now a citizen of the United States, but he could not possibly be a citizen of the State of Pennsylvania, not being a resident there, but he is a citizen of the United States residing in the District of Columbia, and is therefore a citizen of that District. If the right to vote were given to the citizens of that District, and if it were given by constitutional amendment a Representative or Senator in Congress, or both, would anyone say sincerely that Mr. BECK would not be qualified to represent the District in Congress? There could be no possible question about that, because he is an inhabitant of the District of Columbia, filing his income-tax returns from this District, registering

his automobile as a resident of the District of Columbia, residing here with his home, books, paintings, furniture, and his family permanently, and returning his intangible taxes to the taxing authorities within the District.

At the outset of the hearings it was suggested that a man could be an inhabitant of several States. That is clearly an erroneous doctrine, especially in the constitutional sense; because if that were possible under the Constitution, he could qualify for Representative and Senator from several States at one and the same time. This idea, upon mature reflection, runs violently against every constitutional interpretation. But a man can be a resident of several States. He can reside in each of them temporarily, but in order to be an inhabitant under the Constitution it is necessary that he have his domicile in the State in which he claims inhabitancy. On page 10 of the hearings, Mr. DOUGLAS of Arizona, from the committee, suggested by his questions that a bad precedent would be established if we went outside of the Constitution and allowed outsiders to come into the State in order to be elected to Congress. Further answer is made to the inquiry of Mr. BACHMANN, on the committee, who inquired as to whether it would not be a controlling factor to determine the State in which the Representative voted.

This, of course, is not controlling, because the word "citizen," as pointed out in the Bailey case, means nothing more than a member of a political society and is wrapped up about a combination of civil privileges, some of which may be enjoyed in any State or in several States at the same time. Further, the word "citizen" of the United States and of any State is clearly defined by the fourteenth amendment, but no one will dispute that the construction of the word "inhabitant" in this case is purely within the jurisdiction of Congress. The construction put upon the word in any State or all the States is important merely as throwing light upon the general subject. The House of Representatives, always jealous of its own dignity, integrity, as well as its perpetuity, stands out under the Constitution as being the exclusive judge of the qualifications of its Members, and so the House in this case must determine from all the precedents whether the person elected was an inhabitant at the time of his election of the State from which elected, irrespective of his privilege of franchise.

I can conceive of a situation where one State might relax in the stringency of its election laws and permit a man to vote on a property qualification merely, without requiring residence or inhabitancy. Therefore that same person could be an actual inhabitant of another State and be eligible to come to Congress from a State in which he was not a qualified voter, because if he voted in one State he certainly could not be a voter in another. But in this case, it is argued, because of an argument made by one of the members of the Constitutional Convention, the word "inhabitant" would not exclude persons who had been absent for a time upon public or private business; that is true, but Mr. BECK does not come within that classification. His statement and testimony seem to indicate that he believes that having been born in Pennsylvania and having resided there until 1903, he went away, emulating Benjamin Franklin, to secure a competence, and was away from Pennsylvania on public and private business until 1926, but within the terms of the Constitution he was an inhabitant of Pennsylvania until 1903, or at least until he became Assistant Attorney General, and, by his own testimony, he was an inhabitant of New York until 1920. Then he sold his property and became a bona fide inhabitant of the District of Columbia, moving to that District all that he held dear and of which he was most fond. Of course, in 1922 and 1924, under the laws of New Jersey, he may have been qualified to vote, so, therefore, we go back to the old doctrine which the House laid down after seven days of debate over a hundred years ago, when it said that a person in Mr. BECK's position could be a citizen of the United States with his residence in the District of Columbia.

By choosing citizenship in New Jersey, because he there had real estate, personal property, and a voting residence, and a certain status in New Jersey wrapped up in a combination of civil privileges, Mr. BECK was authorized to vote, but what has he done to change the condition which existed from 1920 until 1926? He did not move his residence; he did not create a domicile; he attempted merely to add to an already existing status, to wit, while he owned property in New Jersey and had his home in Washington and was a mere private citizen engaged in the practice of the law at his permanent home in Washington, D. C., he attempted by artificial means to add to an already existing status by creating the combination civil privileges in Philadelphia which would do nothing more than transfer his voting status from New Jersey to Pennsylvania. But he has performed no act of a permanent nature, nor has engaged in a continuous, habitual, and permanent source of conduct which

would justify him in saying that he is an inhabitant of Pennsylvania or that he has been such an inhabitant since 1903.

At no point in Mr. BECK's testimony does he do any more than claim that he had resumed his citizenship in Pennsylvania. Nowhere does he make the claim that he became again an inhabitant. (See p. 21 of the hearings.)

On page 40, he admits that in 1924, having no vote in Washington, and having lost his vote in New York, he voted from his summer home in New Jersey, but that he took no steps whatever after 1924, until the present time, in New Jersey, to show that he had abandoned his civil privileges there.

Therefore if he had done nothing in Philadelphia, attempting to add to an already existing status, he would still have been a qualified voter in New Jersey, with his habitation in Washington, D. C.

Can it be supposed that the claimant is an inhabitant of Pennsylvania when he does not eat or sleep in what he claims to be his residence there? On page 59 it is shown that he has no wearing apparel in this so-called habitation. He has less than six books and perhaps none in this apartment, his sister resides continuously at the apartment and has done so for the past year. In the summer of 1927 Mr. BECK was at his Sea Bright, N. J., home and for another month of that year he was in Europe. His children both live in Europe. His wife has scarcely ever occupied this apartment—there is only one bedroom in it; therefore, when his sister is there, he testified he slept at the Art Club, Philadelphia, of which he was, knowingly, a nonresident member. If his sister occupied the apartment continuously, Mr. BECK, therefore, never slept in it, having never eaten in it, having no clothes and no books in it, and since his wife rarely, if ever, occupied it, it is difficult to understand just what Mr. BECK's argument is, and how he, as a man of high intellect and legal attainments, can indulge himself with the belief that he is an inhabitant of Pennsylvania. The strongest thing that can be said for him is, taking his statement at its face value, he intended to resume his citizenship in Pennsylvania.

Residence is, in some degree, a matter of intention, inhabitancy is in every degree a question of fact, shown by the acts of him who claims to be an inhabitant. There may be some element of intention about it, but the intent must be shown by unqualified acts, showing a consummated desire to become an habitual resident, with continuous acts showing conclusive degree of permanency.

On page 58 it is shown in his testimony that Mr. BECK established this apartment that he might have the status of a citizen:

Mr. BECK. I do not know as to that. But what I do want to impress upon the committee is this: That in taking that apartment when I rented it, what was the dominant purpose with me was to again establish a status in Philadelphia as one of its people. The seat in Congress was then a possibility undoubtedly, and I would not want to say, and could not say truthfully, that it had nothing to do with the renting of the apartment.

But I was by no means clear in my mind that I wanted to go to Congress. It involved a very substantial sacrifice to me. But, at least, I did not want to be the kind of Washingtonian who was content to escape all civic responsibilities and duties, and I felt I had all my life preached the duty of every citizen taking a part in politics, and I ought to have a status as a citizen and that I could not have it in Washington, and I established it in Philadelphia to do my civic duty.

On pages 53 and 54, may we call attention to the fact that Mr. BECK practically admits, although in a very hesitating way, that his sister occupied the apartment continuously and, therefore, he could not have done so.

Mr. KENT. Now, when did you go back to Philadelphia after that? What was your first trip back?

Mr. BECK. I could not tell you about my first trip after that.

Mr. KENT. How long had you been there before you made the three speeches?

Mr. BECK. I doubt very much whether I was in Philadelphia except those three nights before the election—I mean in the immediately antecedent days. I could not tell you exactly. The situation is this, Mr. KENT: I have been in Philadelphia, as my statement shows, if you exclude the summer months, almost every week. I have business in New York. I will break my journey in Philadelphia, then go to New York and transact my business there; then spend another night in Philadelphia, and then come here. Sometimes I have public addresses to make in Philadelphia, and then I will stay there longer. But if you want to prove that—I am going to admit it—and I want to admit anything that is true, whether it helps or hurts my case—if you want to prove that I spend more time in my Washington home than in my Philadelphia home, I admit it. And if that is fatal to my case that is the end of the case.

See pages 53 and 54. This apartment, the testimony shows conclusively, was rented solely for the purpose of establishing a voting residence in the erroneous belief that such procedure would satisfy the Constitution of the United States fixing qualifications for Representatives. We quote from pages 51 and 52 of the hearings:

Mr. KENT. Now, may we have the name of the sister, please?

Mr. BECK. Miss Helen Beck.

Mr. KENT. Now, you have stated that when she occupied the apartment at night, you did not. You have also stated in your statement before the committee that she resides there almost continuously?

Mr. BECK. I say, since she has returned from Europe. I mean in the last year, I think it was, she has been there right along.

Mr. KENT. In Europe?

Mr. BECK. No; I mean to say that she has been at that apartment.

Mr. KENT. I see—and she has occupied it at night?

Mr. BECK. Yes. But whenever I wanted it, I would take it.

Mr. KENT. She goes down, now, does she not, a couple of times to get the mail?

Mr. BECK. She does not go down. She is there.

Mr. KENT. All the time?

Mr. BECK. Well, you do not mean 24 hours a day. She goes out like anybody else.

Mr. KENT. But she inhabits this apartment continuously?

Mr. BECK. Mr. KENT, outside of a visit she has made down to Washington, I suppose my sister has been there continuously.

Mr. KENT. Then it was suggested to you that you could take this seat?

Mr. BECK. Oh, yes.

Mr. KENT. By whom?

Mr. BECK. Well, it is fair to say that I sought the place.

Mr. KENT. Yes; I see.

Mr. BECK. When I say I sought it, I mean I sought it not six months ago; but I expressed a desire when I reidentified myself with Philadelphia to represent, if possible, the city in Congress. I had no desire for any local office, or rather, that did not appeal to me. But I did think I could do something for my native city in Congress, and therefore I am not posing as having had this thing thrust upon me. I expressed a desire to go to Congress, and that desire was acceded to.

Mr. KENT. And promptly, therefore, you suggested to friends that you had the desire to go to Congress from Philadelphia?

Mr. BECK. Yes.

Mr. KENT. And represent your native city?

Mr. BECK. Yes.

See also page 61 of the hearings, in which it is definitely and conclusively shown that Mr. BECK, in his search for apartments in Philadelphia, with Albert Greenfield, Mr. VARE's lieutenant and principal financial supporter, was confined to the first congressional district, that the apartment was selected in full anticipation of the fact that he might run for Congress and that the selection of the locality had in mind a possibility of his going to Congress.

Mr. KENT. The location of the apartments then, that you and Mr. Greenfield visited was fixed, not because of the fact that they were in the first congressional district and that Mr. VARE is likely to be nominated for the United States Senate, thus causing a vacancy in the congressional seat, but because of your love for that particular section of the city?

Mr. BECK. No; I do not pretend that. The apartment was selected in full anticipation of the fact that I might run for Congress. My point is that my taking any habitation in Philadelphia had as its dominant purpose the desire to be reidentified with the political life of Philadelphia, quite irrespective of whether I ran for Congress or not. But the selection of that locality had in mind the possibility of my going to Congress; and it also had in mind that it was very accessible to the main thoroughfare of Philadelphia, and right around the corner from my club.

Mr. KENT. This was, then, in anticipation of becoming the successor to Mr. VARE?

Mr. BECK. In anticipation of the possibility.

Mr. KENT. And therefore Mr. Hazlett became a candidate for Congress in order to hold the seat until you should become a qualified voter?

Mr. BECK. No; on the contrary. I can not interpret Mr. Hazlett's views. But I think Mr. Hazlett was unwilling to give up his seat unless he could be elected recorder of deeds. He preferred the local office. If he had been defeated for recorder of deeds I imagine that he would be occupying the seat and I would be out of it.

On pages 74 and 75, of the hearings, is the following, very interesting colloquy between Mr. CRAIG, of the committee, and Mr. BECK. It shows that at the 1926 primary, when Mr. VARE was nominated, Mr. BECK contemplated the possibility of going to Congress and therefore rented the apartment in the first congressional district, shortly thereafter, in order that he might be the legatee to Mr. VARE's seat.

Mr. CRAIL. At the primary of 1926, did you contemplate in your mind somewhat the possibility of running for Congress from the first district of Pennsylvania?

Mr. BECK. I contemplated the possibility of it. That is undoubtedly true. I had no assurance at that time of any support, and it is needless for me to say that it was not a question of entering the primary. It was a question of getting the support of the organization leaders. I had nothing to do with the primary in that year. As I said before, I was in Europe. I took no part in the primaries. I did not feel I had reestablished my citizenship sufficiently to take any part in them.

Mr. CRAIL. Mr. Hazlett was the candidate at that time, was he not?

Mr. BECK. Yes.

Mr. CRAIL. At that time was he holding the office of recorder?

Mr. BECK. I think he was.

Mr. CRAIL. He was holding the two offices for a while?

Sergeant at Arms ROGERS. Yes.

The Bailey case and all the precedents which follow it hold that an inhabitant in the constitutional sense must be one who is an habitual resident, completely identified with the State from which he comes, entitled to all the rights and privileges of the State, and subject to all its duties and responsibilities, and yet Mr. BECK was fraudulently placed upon the registry assessor's books on May 3, 1926. He did not take trouble to render himself liable to taxation; he paid no taxes for 1926 and none for 1927, and in 1927 found in his mail an assessment blank directed to him, stating that if he made no returns for 1928 he would be arbitrarily assessed by the taxing authorities. He did pay 25 cents for a poll-tax receipt in September, 1927, but we have the interesting spectacle of him who has written volumes upon civic duty and in defense of the American Constitution attempting to say to the House of Representatives that he was subject to the civic duties and responsibilities, as an inhabitant of the State of Pennsylvania, when he utterly ignored and neglected the taxing power of the State, without the taxes of which the State would fall into dissolution. If he were a bona fide resident or inhabitant, he would have gone to the taxing authorities. He would have caused himself to be assessed for 1926, which is the year he says he began his residence there. He would have become assessed or paid taxes for 1927, because his testimony shows that he had a financial agent in Philadelphia who for 10 years had handled his personal business, and that he had at all times taxable securities in Philadelphia. On December 31, 1927, after his election to Congress, Mr. BECK was arbitrarily assessed by the taxing authorities for \$20,000. Mr. BECK filed no returns, although return sheets were presented to him. He stated that he chose to permit the arbitrary assessment to stand. He does not even say that it was too high or too low; then, if it was too low, as a good citizen it was his duty to make an honest return to the city of which he was an inhabitant, the city of his birth, in which he sought to represent a large constituency in the halls of the most important legislative body in the civilized world. (See pp. 66-67.)

In the Bailey case Mr. Hall, of North Carolina, might be heard saying in this House about Mr. BECK as he said about Mr. Bailey:

A person must live among those who are to become his constituents.  
 \* \* \* He is confronting the abstract political right of citizenship with the act of inhabitancy which the Constitution requires. \* \* \*  
 I know no better definition of "inhabitation" than habitual residence.

Mr. BECK continued to file his income-tax statements, and still does so, from the District of Columbia, although it is made out by an agent in Philadelphia. (See p. 72.) There is no significance in the fact that he has a bank account in Philadelphia, because he has had one there for 10 years and also has accounts in New York, Washington, London, Paris, and Geneva. These are incidents showing the intent of Mr. BECK in connection with his failure to exhibit any intent he may have had to become a bona fide inhabitant of Philadelphia. Another indication is the fact that he continued as a nonresident member of the two clubs in Philadelphia of which he was a member. He did not change his status in the Art Club until the matter was called to his attention (see p. 70):

Mr. BECK. A couple of months ago. But I was utterly unaware that I was a nonresident member of the Art Club. I paid no attention to it. I paid the dues and that was all I know.

Mr. KENT. Was it at the time of your election that you learned that you were a nonresident member?

Mr. BECK. I think it was about that time that some member of the club, attracted by the discussion—I imagine that it was shortly after the election, and there was some little discussion, and some member said to me, "Are you a resident or a nonresident member of the Art Club?" And I found I was a nonresident member, and I told them to transfer me to resident membership, which they did.

Mr. KENT. And when was the transfer made?

Mr. BECK. I have no recollection, except that it was a short time after that.

Mr. KENT. But it was after the election.

Mr. BECK. It was after the election.

In Washington, D. C., he has continued his membership as a resident member. With the desire to reidentify himself with his native city, it would seem that he would have been meticulously careful about his club membership, just as careful about establishing his family in Philadelphia, and still more careful about rendering proper tax returns to his city, his county, and his State, rather than "permit himself to be assessed whether the amount was just or unjust." In this case Mr. BECK stands before the highest tribunal on this subject which can adjudicate his title to this public office, and he must be treated in the same way as any other citizen. There is only one conclusion to be drawn from this conduct, namely, Mr. BECK did not regard himself as a bona fide inhabitant of Pennsylvania, or he would have rendered proper tax returns. His failure to do so and his acceptance of the arbitrary assessments lead one irresistibly to believe that the assessment was too low and not too high. It could not have been accurate because it was an arbitrary guess.

On the subject of assessments it is further interesting to note the manner in which Mr. BECK permitted himself to be carried upon the books of the registry assessor in the city of Philadelphia. We must bear in mind that Mr. BECK contends that the apartment was the habitation of himself and his wife and yet, after he was fraudulently placed upon the assessor's list in May of 1926, there were three separate assessments. In September, 1926, the name of Mr. BECK only appears—that was the assessment of May 3, 1926, concluded in September; Mrs. BECK's name does not appear. Mr. BECK's name appears at the end of the column in different ink and apparently in different handwriting from the names preceding it. In December of 1926 the name of Helen Beck appears, that being Mr. BECK's sister, and again Mr. BECK's name appears at the end of the column. In the following assessment the name of Helen Beck has dropped out. Mr. BECK's name appears twice and Mrs. BECK's name appears for the first time. In the following assessment of December, 1927, the name of Mr. BECK only appears. The assessor placed upon the said report that they had gained their information from the janitor and superintendent of the building and in one instance by copying the names as they appeared on a directory on the first floor of the building. Mrs. Beck has never paid any taxes, was not assessed for real or personal property taxes, and never voted. This same condition existed so far as Helen Beck is concerned. Here, again, we have a condition wherein Mr. BECK failed to subject himself to the duties and liabilities of citizenship in Pennsylvania. That testimony shows lack of complete identification in Pennsylvania and its interests.

In order further to show that Mr. BECK had no intent to establish a habitation but a mere voting residence we quote from page 45, showing that he campaigned very little and was glad to get back to Washington. The intent is herein shown in that Mr. BECK was glad to get back home to his family, his habitation, books, and the things that he held dear. On page 45 of the hearings it is shown that he went out to dinner on the night of the election. Page 48 of the hearings shows that he did not even know the names of the gentlemen who nominated him. On pages 48 and 49 is told the remarkable story of Mr. BECK having heard from Senator VARE's secretary that he was to be nominated for Congress waited alone in this apartment, was later told to come to a said meeting room and there he met a committee which he did not then know and does not now know, which committee nominated him for Congress. He does not know the location of that place or the voting place where the voting booth is. This is all perfectly conclusive—that Mr. BECK's sole intent and inclination was to establish a voting residence to comply with the legal qualifications necessary for voting and he never intended to become an inhabitant of Pennsylvania. In this connection it is of extreme importance to again note that establishing a home and becoming an inhabitant are quite different from reidentifying one's self with his native city.

We have thus gone to considerable length to prove that Mr. BECK was not completely identified with Pennsylvania when elected nor was he an habitual resident at that time entitled to all the rights and privileges of inhabitancy and subject to all the duties and obligations arising therefrom, nor did he have an habitual abode or domicile in that city.

If there had been any doubt that Mr. BECK was not a qualified voter of Philadelphia, it certainly ought to be set at rest after referring to the decisions cited and the argument made by the Hon. Alexander Simpson, Jr., a justice of the Supreme Court of Pennsylvania. (See vol. 63, No. 1, University of Pennsylvania Law Review, beginning on p. 1.)

If Mr. BECK was not such a resident of Pennsylvania under its particular election laws that he could become a qualified voter, then, under all conditions, he certainly was not an inhabitant of Pennsylvania. Having in mind that inhabitant is a stronger word than resident and requires not only locality of existence but permanency and habitual residence, we must know that an inhabitant of Pennsylvania clearly would be entitled to vote in that State by going through the technical process of assessment and registration. No one who reads Justice Simpson's article could possibly believe thereafter that Mr. BECK was an inhabitant of Pennsylvania. And we quote only a few of the paragraphs therefrom, in the hope that the committee will read carefully all the decisions cited thereunder. Beginning at page 4 of that volume may we quote as follows:

The question under consideration divides itself into two others, viz: (1) What does the word "resided" mean in the foregoing constitutional provisions and (2) under what circumstances may an elector choose which of two or more places shall be his voting residence? These questions naturally and inevitably run into one another, rendering it difficult to consider one without, in a large degree, considering the other; but an endeavor will be made herein to answer them separately, as far as it is possible so to do.

As the maxim *expressio unius est exclusio alterius* is applicable to the Constitution, and has been expressly applied to this part thereof (Page v. Allen, 58 Pa. 338 (1868)), it follows that, save in the excepted cases, a voter must have his actual residence in a particular election division of the State, in order to qualify him to vote there; and no expedient or excuse will avail him if he has not. Since the Constitution contains nothing antagonistic to this conclusion, it alone should solve the question in issue.

It is obvious, therefore, that even a technical construction of the constitutional provisions compel the conclusion that, save in the excepted cases, the voter must have an actual, fixed residence, in fact, in the place where he offers to vote; and that no other character of occupancy will suffice. Moreover, under the first of the foregoing principles of interpretation the Constitution is not to be technically construed, but as the average voter probably understood it. Every such man would unhesitatingly say that, in order to "have resided in the election district where he shall offer to vote at least two months immediately preceding the election," the voter must have actually lived there; it must have been his home as we know and love that term; not an imaginary or technical home, but an actual, established one; one which every unbiased citizen and neighbor would unhesitatingly say is the voter's home.

Fry's election case, herein repeatedly referred to, is the leading case in Pennsylvania upon the question as to whether or not students temporarily living in college, solely for the purpose of pursuing their studies are entitled to vote in the election district in which the college is situated, if they have complied with the other constitutional requirements in regard to suffrage. It was held they were not, for the reason that the word "resided" refers to a real home and not to a mere temporary stopping place; and this is substantially the unanimous American view.

See also Jacobs on the Law of Domicile, section 325:

I apprehend that if a citizen of the United States, formerly living in another State, abandons his residence there and moves into a house in Pennsylvania, which thereafter is his only home, and is occupied as such during the year prescribed by the Constitution, he would be entitled to vote here though he always intended to move away at some time in the future. Having given up his old home, there is no place to which the *animus revertendi* could apply; and the intention to move away from the new home at some time thereafter is at most a floating intention (Gilvert v. David, 235 U. S. 561 (1915); 19 Corpus Juris 407, 97, H. I. Cases, 124, 160 (1858)), which may float out of sight when the beauties of spring and fall lead him to feel he can not improve his condition by going elsewhere, but he may reappear with the chills of winter and the heat of summer.

And so it may well be said that in case one may be subject to a floating intention and Mr. BECK may have abandoned his intention to reside in the first congressional district of Pennsylvania, as the beauties of the Pennsylvania autumn and the exhilaration of a Pennsylvania election had passed away. He may have felt then that his law office and magnificent home in Washington, where his wife lived, and among his books, furnishings, and portraits would be a more acceptable place. Of course, under Mr. BECK's contention, his intention to inhabit Pennsylvania could again return with each succeeding election.

In this connection, it is important to note that in the event of Mr. BECK's death, there would be a question as to the particular taxing laws which would attach to the distribution of his estate. No matter where he may have voted or claimed the right to vote, yet his actual domicile would govern and it would appear quite conclusive that he would be taxed in accordance with the taxing laws of the District of Columbia. By a peculiar coincidence also

under the law of Pennsylvania, Mr. BECK's property could not be attached in Pennsylvania under the attachment laws.

See also from Mr. Justice Simpson's opinion:

It is repeated, therefore, as a matter of law, that, subject to the exceptions specified in the Constitution, the residence prescribed by it must be an actual residence in the physical occupancy of the voter, his real home, in fact, and not in expression merely.

While it is doubtless true, as stated by Lord Cranworth in *Whicker v. Hume*, "By domicile we mean home, the permanent home," and if you do not understand your permanent home I am afraid that no illustration drawn from foreign writers or foreign languages will very much help you to it.

The rule stated in this latter case, namely, that the party's acts must accord with the choice he makes, applies even where there are two homes occupied at different seasons of the year; and a fortiori it does so where one thereof is but a perfunctory stopping place. In all such cases the statement that the voter has selected a certain place as his home must necessarily give way to proof of his acts; for one can not be heard to say, if in fact his actions show that some other place is his real home, "That actions speak louder than words is sound law as well as proverbial wisdom." (*Graham v. Dempsey*, 169 Pa. 460, 462 (1895).)

Therefore Justice Simpson has truly stated the law of Pennsylvania in a very few words to be as follows:

2. If he is a family man, the actual established home is ordinarily where the family actually lives. If not it is where he normally and usually resides; and no temporary use of any other house, whether or not he formerly lived there, will justify a choice by him, or avail as against the actual established home.

3. If he has two or more actual established homes, he may select which of them shall be his voting residence; but not otherwise.

4. He can not legally vote elsewhere than in the election district in which is situated his actual established home, as hereinbefore defined.

We have already pointed out by citations in the Bailey case what would be the result if officeholders in the District of Columbia were permitted, although being actually inhabitants there, to run for Congress and become elected in districts in the States of the Union. The Executive would thus have a powerful influence in shaping legislation and could eventually control Congress through the appointing power.

But there is a still greater evil which ought to be avoided. Congress, according to Champ Clark, will some day be almost in continuous session. The great, expanding, and varied interests of our people and the great population of our country have made it necessary, at least, to conduct one long session of Congress from December to June. Congressmen must, therefore, be understood to be in Washington temporarily, as temporary residents representing States in which they are inhabitants, but since Representatives must necessarily be in Washington for the temporary purpose of representing their people, a great danger would arise if they were permitted to have their chief occupation in Washington, as the actual practice of the law with Washington offices as headquarters for that practice. Mr. BECK has his office in the Southern Building. Twelve other lawyers, or persons engaged in business, have their offices in the same suite. These attorneys, according to official records of which this House in its judicial capacity will take judicial notice, appear before all the governmental bureaus and departments representing clients throughout the United States and foreign nations. No wrongdoing is imputed to Mr. BECK, but we can not conceive of conditions where, if Mr. BECK is permitted to retain his law practice in Washington and his established home here, and still be called an inhabitant of Pennsylvania, will other lawyers—as Members of Congress, not want to do the same thing?

If we establish this precedent, Members of Congress can practice law in Washington, own homes here, have their principal residence here, have law offices here, receive here fees for conducting the private business who employ associates of such Congressmen in matters affecting legislation on domestic and foreign affairs. Under article 198 of title 18 of the Criminal Code (see the Code of Laws of the United States of America, in force December 6, 1926, vol. 44 pt. 1, p. 474, and also under sections 202, 203, and 204 of the same volume and other penal laws) it would be unlawful for a Congressman to act in any matter against the United States or in which the United States was interested. In other words, a Representative could not be active in an individual capacity against his Government nor could he accept a fee nor be interested in compensation directly or indirectly growing out of any matter in which his Government was interested. It is doubtful whether he could even represent his Government in such matters. A Representative is wholly separated as a legislator from acting in any executive or judicial way, but if Congress should sink to a low ebb or

level, can not we visualize a large proportion of a particular Congress made up of men of high intellectual attainments having offices in Washington, being secretly interested in matters affecting their Government, living in Washington, being inhabitants here, having permanent habitations here, controlled by persons and corporations whose sole interests would be to shape legislation in particular ways? Personally, I can see in the future probable conditions arising which would make such Congressmen the actual balance of power and the dominating influence in legislation. Such a condition would without doubt eventually bring about a dissolution of this powerful Government.

Other nations in the past have felt as secure of themselves as we now do. They were just as absolute. They felt that they had just as sure a grip on themselves as we feel that we now have. But they became careless. They allowed executive power to run on without restraint. They permitted the legislative authority to usurp functions that they did not possess and to-day they are no more than ashes and dust.

To seat Mr. BECK in this case would definitely set aside every leading precedent governing similar cases before the House of Representatives. We have quoted freely from the Bailey case, but another very important case is found in volume 1 of Hinds' Precedents, page 426, in the case of McDonald against Jones. At the same time of the election in 1894, and prior to and since that time, the contestant was engaged in business and resided with his family in the city of Washington in the District of Columbia. He had no place of business or residence of any description in the State of Virginia. It was held that he was not an inhabitant of the State of Virginia at or near the time of his election and was not eligible to his seat. That case is exactly like the present one, since Mr. BECK never claims to have been an inhabitant of Pennsylvania. But merely claims to have endeavored to reidentify himself with Pennsylvania in establishing a voting residence therein.

It is held in volume 1 of Hinds', page 381, in the case of William McCreery, that the States have no right or power to add to the qualifications of a Representative and so it became the sole and absolute duty of this House to decide this question according to the true intent and spirit of the Constitution.

Mr. VINCENT of Michigan. Will the gentleman yield there?

Mr. KENT. I am happy to yield to the chairman of the committee.

Mr. VINCENT of Michigan. I want to correct the statement that the gentleman made. Mr. BECK was on the resident list of all the clubs he belonged to except only two clubs, and the resident list of the Metropolitan Club here in Washington includes people living anywhere within the United States.

Mr. KENT. The resident list of the Metropolitan Club in Washington consists of members who live within 30 miles of the city of Washington.

Mr. BROWNING. My recollection is that the only two clubs on which he was on the nonresident list were the ones he belonged to.

Mr. WELLER. Mr. Speaker, will the gentleman yield?

Mr. KENT. I do.

Mr. WELLER. I do not see whether it makes any difference whether he was on the residential list or nonresidential list. If he maintained after he left Philadelphia his membership in the clubs of Philadelphia, it would indicate that he intended to go back there.

Mr. KENT. Perhaps; but the same conclusion would apply to clubs in London and to the Union League Club in New York, of which he was a member. Retaining his memberships there would indicate he intended returning to those places.

Mr. JACOBSTEIN. Mr. Speaker, will the gentleman yield?

Mr. KENT. Yes.

Mr. JACOBSTEIN. Did the character of the district where the apartment he rented was located comport with the high position of Mr. BECK?

Mr. KENT. I had hoped that that point would not be brought up.

Mr. JACOBSTEIN. It concerns me as a question whether it was a subterfuge or not.

Mr. KENT. I had hoped that that would not be brought up. I was hoping that I myself, being a Representative from the State of Pennsylvania and a colleague of Mr. BECK's from the same State, would not be asked a question of that kind. But Mr. BECK, in my judgment, who has such a fine library and has so many art treasures and so beautiful a home in Washington, would not attempt to add to his already existing status—that is, the status of a citizen and inhabitant of the District of Columbia and a qualified voter under the statutes of New Jersey—by going into South Philadelphia, into this particular district, to live there. It does not seem probable.

Mr. DOUGLAS of Arizona. Mr. Speaker, will the gentleman yield?

Mr. KENT. Certainly.

Mr. DOUGLAS of Arizona. Is it not a fact that in October, 1927, the secretary or some other official of the Art Club of Philadelphia wrote to Mr. BECK and called his attention to the fact that Mr. BECK had been publicly identified as a resident of Philadelphia, and asked the question as to whether or not Mr. BECK did not desire his membership to be transferred from the nonresident roster to the resident roster?

Mr. KENT. That is partially right. Mr. BECK, when his attention was called to the fact that he was a candidate for Congress from Philadelphia and on the nonresident list of the club, suggested that he go on the resident list on the first of the next year.

Mr. DOUGLAS of Arizona. And is it not further the fact that on November 7, 1926, before Mr. BECK was elected, he replied by letter that he desired to be transferred to the resident roster of that club?

Mr. KENT. I have answered that. But that does not affect the fact that he had no residence in Philadelphia. A man who is completely identified with the interests of Pennsylvania pays taxes therein, and from the time some one registered him on the registration books when he was in Europe, on May 3, 1926, until the hearings the testimony shows that he paid only 25 cents taxes, and no more. He was carried on the assessment lists in 1926 and 1927 and was adversely notified to make returns for personal-property taxes. He did not do so, but was arbitrarily assessed. But he paid no taxes except 25 cents up to the time of the hearings. [Applause.]

Mr. VINCENT of Michigan. Mr. Speaker, I yield 20 minutes to the gentleman from Massachusetts [Mr. DOUGLASS].

The SPEAKER. The gentleman from Massachusetts is recognized for 20 minutes.

Mr. DOUGLASS of Massachusetts. Mr. Speaker and Members of the House, I do not desire to discuss the question at issue on such points as where a man sends his wash or how many books he has in his library or the clubs he belongs to. As the Democratic member of the committee who joined in the majority report, I have a brief outline of my ideas to give you.

This matter gave me great concern as a member of the committee. My position was not at all clear in the beginning of the hearings. In fact, I might say I was a bit prejudiced against the case of Mr. BECK. But as I listened to the evidence and as I heard the arguments advanced before the committee I was compelled to arrive at the conclusions of the majority.

I am first impressed by the debate in the Constitutional Convention itself. That debate as copied here in the report of the committee, taken from the Madison papers, occupies only a page in small type. However, the real argument was had upon the question of the word "inhabitant." What very brief statements were made I desire to take the time to read to you. In the first place, remember that the original draft of the Constitution contained the word "resident," and that word "resident" was afterward changed to "inhabitant," and the debates on the meaning of the words "inhabitant" and "resident" ensued.

Mr. Madison said, seconding the motion to have the word "inhabitant" inserted:

Both were vague, but the latter least so in common acceptance, and would not exclude persons absent occasionally for a considerable time on public or private business. Great disputes had been raised in Virginia concerning the meaning of residence as a qualification of Representatives which were determined more according to the affection or dislike to the man in question than to any fixed interpretation of the word.

And from the day of the Constitutional Convention down to the present time, in all our courts there have been disputes and various interpretations of the words "resident" and "inhabitant." My judgment in this case has been formed because of the historical meaning of the word "inhabitant," as understood at the time of the framing of the Constitution, and at that time, as I gathered from my study of the question, the word "inhabitant" did not mean so much a resident as it meant a person who had a location in the colony, a person who was familiar with the local needs and conditions of the colony, and as I gather from the debate here and from the commentaries made upon it by historians, the meaning of the word "inhabitant," as used in our Constitution—and with the true meaning of that word we are engaged here to-day—is a person with a habitation in the community, one who is familiar with the local needs and conditions. So, when the Constitution provided that a man must be an inhabitant of the district from which he was elected, it meant that he should be a man who knew his people, who knew their interests, who knew their

conditions, and who was one of them in the commonly accepted sense.

With that understanding of the word "inhabitant" I have gone down in my own mind to the case of JAMES M. BECK, and I find that Mr. BECK was born in the city of Philadelphia, the city from which he has had the honor to be elected. I find he was educated in the public schools of the city of Philadelphia and in the colleges of the great State of Pennsylvania. I find that his life, outside of his public service here in Washington in the service of the United States Government, his whole life, has been devoted to the interests of the city of Philadelphia and of the great State of Pennsylvania. His real interest was not in the clubs and in the social institutions alone but in the progress and in the development of his native city, so that when the Sesquicentennial Exposition was talked about and a true representative of that city was to be sent to Europe to interest foreign countries in that exposition, it was this JAMES M. BECK, of whom we are speaking, who was chosen by the mayor of Philadelphia to represent the people of Philadelphia, to represent the interests, the local interests and conditions of Philadelphia in the countries of Europe. [Applause.] And that man, a native of Philadelphia, a son of Pennsylvania, knowing that he was an inhabitant of the city of Philadelphia, desired to renew his connections with his native city, as was his right, and, I doubt not, he had an ambition to become a Member of Congress, as all of you men here had, otherwise you would not be here. With that honorable ambition to become a Member of this great legislative body and serve his Nation, as he had served his city, he comes to the city of Philadelphia and there builds a home, and under the Constitution and within the meaning of the word "inhabitant" he becomes a voter. I care not for the technicalities that have been raised here. He became a voter substantially and within the law. At the time he voted in the primaries of Philadelphia, in 1927, JAMES M. BECK was a bona fide, legal voter of the city of Philadelphia, a registered voter, and he was assessed and taxed as such. He had a right to vote for himself. No one disputes that, and if he had a right to vote for himself I can not see how the people of Pennsylvania, particularly the people of the city of Philadelphia, had not the right to vote for him for any office to which they wanted to elect him, and they did vote for him as a citizen and as an inhabitant of Philadelphia. They elected him to Congress by an overwhelming majority; they knew he was one of them; they knew that under the meaning of the debates in the Constitutional Convention JAMES M. BECK was familiar with local conditions; that he was able to represent them, and they elected him to represent them.

This case is simple, and I shall be brief. In conclusion, I say that under all the conditions he is entitled to a seat in this body. When the great State of Pennsylvania chose Mr. BECK to represent it in this House the people there believed he was their coinhabitant; they believed he was within his rights under the spirit and the letter of the American Constitution, and if they elected him with that understanding we can seat him with the same understanding. [Applause.]

Mr. VINCENT of Michigan. This closes the debate, Mr. Speaker, and we call for a vote.

The SPEAKER. The question is on the substitute offered by the gentleman from Tennessee [Mr. BROWNING].

Mr. BROWNING. Mr. Speaker, I ask for the yeas and nays. The yeas and nays were ordered.

Mr. DOUGLASS of Massachusetts. Mr. Speaker, may we have the resolution and the substitute again reported?

The SPEAKER. Without objection, the Clerk will again report the resolution and the substitute therefor.

There was no objection.

The Clerk read the resolution and the substitute.

The question was taken; and there were—yeas 78, nays 248, answered "present" 3, not voting 99, as follows:

[Roll No. 8]

YEAS—78

Abernethy	DeRouen	Hill, Ala.	O'Connor, N. Y.
Almon	Domlnick	Huddleston	Peavey
Arnold	Drewry	Jacobstein	Quin
Aswell	Edwards	Johnson, Okla.	Rankin
Bankhead	Eslick	Johnson, Tex.	Ramjue
Beck, Wis.	Fisher	Kading	Sanders, Tex.
Black, Tex.	Fletcher	Kent	Sandlin
Bland	Fulbright	Kincheloe	Sinclair
Box	Fulmer	Lanham	Stegall
Briggs	Gardner, Ind.	Lowrey	Stedman
Browning	Garrett, Tenn.	Lozier	Steele
Busby	Garrett, Tex.	Lyon	Swank
Byrns	Gilbert	McReynolds	Tarver
Carss	Goldsborough	Major, Mo.	Williams, Mo.
Cartwright	Green	Mead	Williams, Tex.
Cole, Md.	Greenwood	Morrow	Wilson, La.
Collier	Hall, Ill.	Nelson, Me.	Woodrum
Cooper, Wis.	Hammer	Nelson, Mo.	Yon
Cox	Hare	Norton, Nebr.	
Davis	Hastings	O'Connor, La.	

NAYS—248

Ackerman	Drane	Knutson	Rayburn
Adkins	Driver	Kopp	Reed, N. Y.
Allen	Dyer	Korell	Reid, Ill.
Andresen	Eaton	LaGuardia	Robison, Ky.
Andrew	Elliott	Langley	Rogers
Auf der Heide	England	Lankford	Rowbottom
Bacharach	Englebright	Larsen	Rutherford
Bachmann	Estep	Lea	Sabath
Bacon	Evaus, Calif.	Leavitt	Sanders, N. Y.
Barbour	Fenn	Leech	Schafer
Beedy	Fish	Lehlbach	Sears, Nebr.
Beers	Fitzgerald, W. T.	Letts	Selvig
Black, N. Y.	Fitzpatrick	Lindsay	Shallenberger
Bloom	Fort	Linthicum	Shreve
Bohn	Foss	Luce	Simmons
Bowles	Free	McCormack	Smith
Bowman	Freeman	McDuffie	Somers, N. Y.
Boylan	French	McFadden	Sproul, Kans.
Brand, Ga.	Furlow	McKeown	Stalker
Brand, Ohio	Gambrill	McLaughlin	Stobbs
Brigham	Garber	McLeod	Strong, Kans.
Britten	Gifford	McSwain	Strong, Pa.
Buchanan	Glynn	McSweeney	Summers, Wash.
Buckbee	Goodwin	Maas	Summers, Tex.
Bulwinkle	Graham	Major, Ill.	Swick
Burdick	Guyer	Manlove	Swing
Burtness	Hale	Mansfield	Taber
Bushong	Hall, Ind.	Mapes	Tatzenhorst
Butler	Hall, N. Dak.	Martin, Mass.	Taylor, Tenn.
Campbell	Hancock	Menges	Thatcher
Carew	Hardy	Merritt	Thompson
Carter	Haugen	Michener	Thurston
Casey	Hersey	Miller	Tilson
Chalmers	Hickey	Monast	Tinkham
Chase	Hill, Wash.	Moore, N. J.	Tucker
Chindblom	Hoch	Moore, Ohio	Underhill
Christopherson	Hoffman	Moore, Va.	Underwood
Clague	Hogg	Moorman	Vestal
Clarke	Holaday	Morehead	Vincent, Iowa
Cochran, Mo.	Hooper	Morgan	Vincent, Mich.
Cochran, Pa.	Hope	Morin	Vinson, Ga.
Cohen	Houston, Del.	Murphy	Wainwright
Cole, Iowa	Howard, Nebr.	Nelson, Wis.	Wason
Collins	Howard, Okla.	Newton	Watres
Colton	Hudson	Niedringhaus	Watson
Combs	Hughes	Norton, N. J.	Welch, Calif.
Connery	Hull, Morton D.	O'Connell	Weller
Connolly, Pa.	Hull, Wm. E.	Oliver, Ala.	Welsh, Pa.
Cooper, Ohio	Irwin	Oliver, N. Y.	White, Me.
Cramton	James	Palmer	Whitehead
Crosser	Jeffers	Palmisano	Whittington
Cullen	Jenkins	Parker	Wigglesworth
Dallinger	Johnson, Ind.	Parks	Williams, Ill.
Darrow	Johnson, S. Dak.	Perkins	Wingo
Davenport	Johnson, Wash.	Porter	Wolverton
Deal	Jones	Prall	Wood
Dempsey	Kahn	Pratt	Wright
Dickinson, Iowa	Kelly	Purnell	Wurzbach
Dickstein	Kemp	Quayle	Wyant
Douglas, Ariz.	Kendall	Ragon	Yates
Douglase, Mass.	Ketcham	Ramseyer	Zihlman
Doutrich	Kiess	Ransley	

ANSWERED "PRESENT"—3

Beck, Pa.

Kvale

NOT VOTING—99

Aldrich	Dickinson, Mo.	Kunz	Snell
Allgood	Doughton	Kurtz	Speaks
Anthony	Dowell	Lampert	Spearing
Arentz	Doyle	Leatherwood	Sproul, Ill.
Begg	Evans, Mont.	McClintic	Stevenson
Bell	Fitzgerald, Roy G.	McMillan	Strother
Berger	Frear	Magrady	Sullivan
Blanton	Garner, Tex.	Martin, La.	Taylor, Colo.
Boles	Gasque	Michaelson	Temple
Browne	Gibson	Milligan	Tillman
Canfield	Golder	Montague	Timberlake
Cannon	Gregory	Mooney	Treadway
Carley	Griest	Moore, Ky.	Updike
Celler	Griffin	O'Brien	Vinson, Ky.
Chapman	Hadley	Patterson	Ware
Clancy	Harrison	Peery	Warren
Connally, Tex.	Hawley	Pou	Weaver
Corning	Hudspeth	Rainey	White, Colo.
Craff	Hull, Tenn.	Reece	White, Kans.
Crisp	Igoe	Reed, Ark.	Williamson
Crowther	Johnson, Ill.	Robinson, Iowa	Wilson, Miss.
Culkin	Kearns	Schneider	Winter
Curry	Kerr	Sears, Fla.	Wolfenden
Davey	Kindred	Seger	Woodruff
Denison	King	Sirovich	

So the substitute was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Canfield (for) with Mr. Griest (against).  
 Mr. Kerr (for) with Mr. Kurtz (against).  
 Mr. Ware (for) with Mr. Wolfenden (against).  
 Mr. Wilson of Mississippi (for) with Mr. Curry (against).  
 Mr. Chapman (for) with Mr. Golder (against).  
 Mr. Browne (for) with Mr. Igoe (against).  
 Mr. McMillan (for) with Mr. Montague (against).  
 Mr. Pou (for) with Mr. Snell (against).  
 Mr. Weaver (for) with Mr. Spearing (against).

General pairs:

Mr. Hawley with Mr. Garner of Texas.  
 Mr. Hadley with Mr. Crisp.  
 Mr. Timberlake with Mr. Martin of Louisiana.  
 Mr. Kearns with Mr. Doughton.  
 Mr. Aldridge with Mr. Rainey.

Mr. Crowther with Mr. Hull of Tennessee.  
 Mr. Sproul of Illinois with Mr. Corning.  
 Mr. Treadway with Mr. Carley.  
 Mr. Magrady with Mr. Bell.  
 Mr. Clancy with Mr. Cannon.  
 Mr. Culkin with Mr. Mooney.  
 Mr. King with Mr. Celler.  
 Mr. Temple with Mr. Doyle.  
 Mr. Gibson with Mr. Sullivan.  
 Mr. Dowell with Mr. Evans of Montana.  
 Mr. Arentz with Mr. Gasque.  
 Mr. Reece with Mr. Taylor of Colorado.  
 Mr. Denison with Mr. Kunz.  
 Mr. Seger with Mr. Hudspeth.  
 Mr. Schneider with Mr. Griffin.  
 Mr. Robinson of Iowa with Mr. McClintic.  
 Mr. Speaks with Mr. Warren.  
 Mr. Crail with Mr. Gregory.  
 Mr. Winter with Mr. Patterson.  
 Mr. Frear with Mr. Milligan.  
 Mr. Johnson of Illinois with Mr. Stevenson.  
 Mr. Lampert with Mr. Slovich.  
 Mr. R. G. Fitzgerald with Mr. Peery.  
 Mr. Michaelson with Mr. Kindred.  
 Mr. White of Kansas with Mr. Reed of Arkansas.  
 Mr. Leatherwood with Mr. Blanton.  
 Mr. Begg with Mr. Dickinson of Missouri.  
 Mr. Williamson with Mr. Vinson of Kentucky.  
 Mr. Boise with Mr. Moore of Kentucky.  
 Mr. Anthony with Mr. Connally of Texas.  
 Mr. Strother with Mr. O'Brien.  
 Mr. Updike with Mr. White of Colorado.

Mr. BACHARACH. Mr. Speaker, the Ways and Means Committee is holding hearings, and the following gentlemen have asked me to get general pairs for them, as follows:

Mr. Hawley with Mr. Garner of Texas.  
 Mr. Hadley with Mr. Crisp.  
 Mr. Timberlake with Mr. Martin of Louisiana.  
 Mr. Aldrich with Mr. Rainey.  
 Mr. Crowther with Mr. Hull of Tennessee.  
 Mr. Kearns with Mr. Doughton.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

On motion of Mr. VINCENT of Michigan, a motion to reconsider the vote by which the resolution was adopted was laid on the table.

Mr. BECK of Pennsylvania. Mr. Speaker, I ask unanimous consent to speak for five minutes. [Applause.]

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BECK of Pennsylvania. Mr. Speaker and my friends of the House of Representatives on both sides of the aisle, it seems strange that the first time I should crave the privilege of addressing the House of Representatives would be an occasion of this character; but when I entered the House and the right to my seat was questioned I determined then that until my right to sit in this House was cleared of any objection or question I would not take part in any debate, and I have consistently followed that principle.

But now I have at least the opportunity to thank the Members of the House—and I include those who voted "aye" as well as those who voted "no"—for the patience, care, and consideration with which they have heard a question of real difficulty and of profound constitutional importance.

It is idle to minimize the fact that the question is one of great importance in the future development of our political institutions. When I made my statement before the committee I made this statement which I venture to quote:

This is my case, and if this committee and, later, the House of Representatives should place a narrower interpretation upon the Constitution I should accept the result without any resentment, for I not only recognize that the question is not free from difficulty, but I especially recognize that the distinguished Representative from Tennessee who assumed the responsibility of this challenge to my eligibility was actuated by no unworthy or partisan motive.

[Applause.]

That, gentlemen, was not a mere conciliatory gesture on my part. It was said because of my long knowledge and deep respect and esteem for the leader of the minority in this House, and I knew full well that for me personally he entertained none but the kindest feeling. I knew full well that only convictions as to his interpretation of the Constitution led him as a matter of conscience to challenge my right to the seat at the beginning of the session. This was clearly within his rights. I did not resent it then and I do not resent it now.

There were certain things that happened during the committee meetings that I confess wounded me very deeply, but to show you how completely those wounds have long since healed, let me add that although I was besought in the recent

campaign to go into the thirtieth Pennsylvania district, in which the gentleman from Pennsylvania, who made the final argument against me, was a candidate, and make some political addresses against his candidacy, and although it was a district in which my college is situated and in which I have many warm personal friends, I nevertheless declined to do anything that might seem to be actuated by any petty personal feeling of resentment or revenge. [Applause.]

And now, gentlemen, if you will pardon me, just a further word: I did seek an opportunity to represent the city of my birth in this House. I am not going to pose by suggesting that the seat was thrust upon me or that I, actuated by high purposes, simply yielded to irresistible pressure to run for office. [Laughter and applause.] I frankly sought it, and I sought the office because I had a very deep and abiding love for the city of my birth, which has never left me and will, I trust, last until my latest breath, and because I believed that with the little knowledge I have acquired in the judicial and executive branches of the Government I might be of some service to the city of Philadelphia in this House by being one of its Representatives. I may add that I had this further motive, that having been a student of our constitutional institutions for more than 30 years and having had some experience with the judicial and the executive branches of the Government, I thought I would like, as a matter of education, to serve in the House of Representatives and see the legislative department of the Government from the inside.

Well, I have had my education. [Laughter.] It has been long and laborious, but most educations that are worth anything are long and laborious; but it has had its compensation for me a thousandfold. When I first came into the House I confess that the apparent confusion which my superficial observations seemed to disclose, made me wonder why I had ever left the quiet decorum of the Supreme Court of the United States to come into so vociferous a body as the House of Representatives. I then found that my superficial views were erroneous and that the richest compensation for service in this House are the friendships that one makes on both sides of the aisle, and as the months passed these friendships made me covet ever more and more a wish to remain in this House; and in the vote that has just been passed I have had abiding proof of those friendships, and I want the gentlemen on the other side of the House, many of whom voted for me, to know how deeply I appreciate the fact that they rose above any question of party politics and ignored the fact that I was not of their political faith and voted to sustain my right to this seat.

I have already spoken more than I intended, and I will only say in the words of Hamlet—

And what so poor a man as Hamlet is

May do, to express his love and friending to you,

On both sides of the aisle—

God willing, shall not lack.

[Applause.]

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment bills of the House of the following titles:

H. R. 14473. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois;

H. R. 14474. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois;

H. R. 14813. An act to authorize an appropriation for completing the new cadet mess hall, United States Military Academy; and

H. R. 15333. An act granting the consent of Congress to the South Park commissioners and the commissioner of Lincoln Park, separately or jointly, to construct, maintain, and operate a free highway bridge across that portion of Lake Michigan lying opposite the entrance to Chicago River, Ill.; and granting the consent of Congress to the commissioners of Lincoln Park to construct, maintain, and operate a free highway bridge across the Michigan Canal, otherwise known as the Ogden Slip, in the city of Chicago, Ill.

The message also announced that the Senate agrees to the amendments of the House of Representatives to the bill (S. 3779) entitled "An act to authorize the construction of a telephone line from Flagstaff to Kayenta on the Western Navajo Indian Reservation, Ariz."

## SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and under the rule referred as follows:

S. 4739. An act authorizing the Secretary of the Treasury to sell certain Government-owned land at Manchester, N. H.; to the Committee on Public Buildings and Grounds.

S. J. Res. 171. Joint resolution granting the consent of Congress to the city of New York to enter upon certain United States property for the purpose of constructing a rapid-transit railway; to the Committee on Public Buildings and Grounds.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 53. An act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture;

H. R. 3041. An act for the relief of Alfred St. Dennis;

H. R. 4935. An act to authorize the appointment of First Lieut. Clarence E. Burt, retired, to the grade of major, retired, in the United States Army;

H. R. 8798. An act for the relief of William Lentz;

H. R. 8974. An act authorizing the President to order Oren W. Rynearson before a retiring board for a hearing of his case, and upon the findings of such board determine whether or not he be placed on the retired list with the rank and pay held by him at the time of his resignation;

H. R. 11071. An act providing for the purchase of 1,124 acres of land, more or less, in the vicinity of Camp Bullis, Tex., and authorizing an appropriation therefor;

H. R. 12897. An act to provide for the acquisition of a site and the construction thereon of a fireproof office building or buildings for the House of Representatives;

H. R. 13033. An act authorizing the Secretary of War to convey certain portions of the military reservation at Monterey, Calif., to the city of Monterey, Calif., for the extension of Alvarado Street;

H. R. 13404. An act authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Louisiana State Museum, of the city of New Orleans, La., the silver service set in use on the battleship *Louisiana*;

H. R. 13503. An act granting the consent of Congress to the State of Minnesota to construct, maintain, and operate a free highway bridge across the Mississippi River at or near Hastings, Minn.;

H. R. 13540. An act granting the consent of Congress to the State Highway Commission of Arkansas to construct, maintain, and operate a bridge across the Ouachita River at a point between the mouth of Saline River and the Louisiana and Arkansas line;

H. R. 13826. An act authorizing the Interstate Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Missouri River at or near Union, Nebr.;

H. R. 13848. An act to legalize a bridge across the Potomac River at or near Paw Paw, W. Va.; and

H. R. 14813. An act to authorize an appropriation for completing the new cadet mess hall, United States Military Academy.

The SPEAKER announced his signature to a joint resolution of the Senate of the following title:

S. J. Res. 139. Joint resolution for the relief of the Iowa Tribe of Indians.

## CONVICT LABOR

Mr. KOPP. Mr. Speaker, I present a conference report upon the bill (H. R. 7729) to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases, for printing under the rules.

## REAPPORTIONMENT

Mr. BRIGHAM. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a table prepared by myself on the subject of reapportionment.

The SPEAKER. Is there objection?

There was no objection.

Mr. BRIGHAM. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following comparison of constituencies at present and under proposed reapportionment on the basis of the 1920 census.

The average number of persons per Representative is 241,867, and is obtained by dividing the population of 1920, 103,212,179, by 435:

State	Population, 1920, excluding Indians not taxed	Number Representatives now	Population per Representative now	Departure from average constituency	Number Representatives proposed reapportionment	Population per Representative after reapportionment	Departure from average constituency
Alabama.....	2,348,174	10	234,817	-7,050	10	234,817	-7,050
Arizona.....	309,754	1	309,754	+67,887	1	309,887	+67,887
Arkansas.....	1,752,204	7	250,314	+8,447	7	250,314	+8,447
California.....	3,426,031	11	311,457	+69,590	14	244,716	+2,819
Colorado.....	939,161	4	234,790	-7,077	4	234,790	-7,077
Connecticut.....	1,380,631	5	276,126	+34,259	6	230,105	-11,762
Delaware.....	223,093	1	223,093	-18,864	1	223,093	-18,864
Florida.....	968,470	4	242,117	250	4	242,117	+250
Georgia.....	2,895,832	12	241,319	-548	12	241,319	-548
Idaho.....	430,442	2	215,221	-26,646	2	215,221	-26,646
Illinois.....	6,485,280	27	240,936	-929	27	240,936	-929
Indiana.....	2,930,390	13	225,414	-16,453	12	244,199	+2,332
Iowa.....	2,404,021	11	218,547	-23,320	10	240,492	-1,465
Kansas.....	1,769,257	8	221,157	-20,710	7	252,751	+10,884
Kentucky.....	2,416,630	11	219,693	-21,174	10	241,663	-204
Louisiana.....	1,798,509	8	224,863	-17,304	7	256,930	+15,063
Maine.....	768,014	4	192,003	-49,864	3	256,005	+14,138
Maryland.....	1,449,661	6	241,610	-257	6	241,610	-257
Massachusetts.....	3,852,356	16	240,772	-1,095	16	240,772	-1,095
Michigan.....	3,668,412	13	282,184	+40,317	15	244,560	+2,693
Minnesota.....	2,885,656	10	238,565	-3,302	10	238,565	-3,302
Mississippi.....	1,790,618	8	223,827	-18,040	7	255,803	+13,936
Missouri.....	3,404,055	16	212,753	-29,114	14	243,147	+1,230
Montana.....	541,511	2	270,756	+28,859	2	270,756	+28,859
Nebraska.....	1,296,372	6	216,062	-25,805	5	259,274	+17,407
Nevada.....	75,820	1	75,820	-166,047	1	75,820	-166,047
New Hampshire.....	443,083	2	221,541	-20,326	2	221,541	-20,326
New Jersey.....	3,155,900	12	262,991	+21,124	13	235,647	-6,798
New Mexico.....	353,428	1	353,428	111,561	1	353,428	+111,561
New York.....	10,380,987	43	241,418	-449	43	241,418	-449
North Carolina.....	2,559,123	10	255,912	+14,045	11	232,647	-9,220
North Dakota.....	644,746	3	214,915	-26,952	3	214,915	-26,952
Ohio.....	5,759,894	22	261,790	+19,923	24	239,974	-1,893
Oklahoma.....	2,028,283	8	253,535	+11,668	8	253,535	+11,668
Oregon.....	783,389	3	261,129	+19,262	3	261,129	+19,262
Pennsylvania.....	8,720,017	36	242,223	+356	36	242,223	+356
Rhode Island.....	604,397	3	201,465	-40,421	2	302,198	+61,331
South Carolina.....	1,683,724	7	240,532	-1,335	7	240,532	-1,335
South Dakota.....	631,239	3	210,413	-31,413	3	210,413	-31,413
Tennessee.....	2,337,885	10	233,788	-8,079	10	233,788	-8,079
Texas.....	4,663,228	18	259,068	+7,201	19	245,433	+3,566
Utah.....	448,388	2	224,194	-17,673	2	224,194	-17,673
Vermont.....	352,428	2	176,214	-65,653	1	352,428	+110,561
Virginia.....	2,309,187	10	230,918	-10,949	10	230,918	-10,949
Washington.....	1,354,596	5	170,919	+29,052	6	225,666	-16,201
West Virginia.....	1,463,701	6	243,950	+1,083	6	243,950	+1,083
Wisconsin.....	2,631,305	11	239,210	-2,657	11	239,210	-2,657
Wyoming.....	193,487	1	193,487	-48,380	1	193,487	-48,380

## LEAVE TO ADDRESS THE HOUSE

Mr. FISH. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes immediately after the reading of the Journal on Thursday next.

The SPEAKER. The gentleman from New York asks unanimous consent that on Thursday next, after the reading of the Journal and the completion of matters on the Speaker's table, he may be permitted to address the House for 10 minutes. Is there objection?

There was no objection.

## REAPPORTIONMENT

Mr. MICHENER, from the Committee on Rules, presented the following resolution:

## House Resolution 284

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H. R. 11725, a bill for the apportionment of Representatives in Congress. That after general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by those favoring and opposing the bill, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the committee shall arise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit.

The resolution and report were referred to the House Calendar and ordered to be printed.

## LEAVES OF ABSENCE

By unanimous consent, leave of absence was granted to—  
Mr. WOODRUFF, at the request of Mr. MICHENER, on account of illness.

Mr. MONTAGUE, for three days, on account of illness in his family.

Mr. DOYLE, for 10 days, on account of illness.

Mr. BELL, for five days, on account of important business.

#### WAR DEPARTMENT APPROPRIATIONS

Mr. BARBOUR. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 15712) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1930, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15712, with Mr. TILSON in the chair.

The Clerk reported the title of the bill.

Mr. LA GUARDIA rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. LA GUARDIA. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LA GUARDIA. I understand that when the committee rose the last time the bill was under consideration the Clerk had read up to and including line 11 on page 12.

The CHAIRMAN. The gentleman is correct.

Mr. LA GUARDIA. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. LA GUARDIA: Page 12, line 11, strike out the period, insert a colon, and the following: "Provided further, That none of the money appropriated in this act shall be used to pay any officer or enlisted man on the retired list of the Army who is in the employ of the United States and whose salary for such employment exceeds \$2,500 per annum."

Mr. BARBOUR. Mr. Chairman, I make the point of order on the amendment that it is not germane. I shall reserve the point of order.

Mr. LA GUARDIA. Oh, no. If the gentleman wants to make the point of order, let us dispose of that now.

Mr. BARBOUR. Mr. Chairman, if I understood the amendment correctly, it is apparently to limit the purposes for which these funds shall be used, but the practical effect of the amendment is to change substantive law, the law governing the payments to retired officers. For that reason I make the point of order that the amendment is not germane, and that while upon its face it is a limitation, yet nevertheless it changes existing law.

Mr. LA GUARDIA. Mr. Chairman, the question of germaneness does not enter into this at all at this time. The amendment is purely a limitation upon the appropriation, and the Chair has nothing else to do but to observe the paragraph following the one just read, which is a similar limitation and which has been passed on repeatedly on this very bill.

The CHAIRMAN. Does the gentleman from California wish to be heard further on the point of order?

Mr. BARBOUR. No.

The CHAIRMAN. The amendment offered by the gentleman from New York seems to the Chair clearly a limitation, and a proper limitation from a parliamentary standpoint. It refers only to the money appropriated in this bill and limits the purposes for which this money may be expended. The Chair overrules the point of order.

Mr. LA GUARDIA. Mr. Chairman and gentlemen, the purpose of my amendment is simply to prevent the drawing of two pays by retired officers of the Army. Recently there has been an epidemic of young retired officers getting from \$3,000 to \$3,500 and \$4,000 retired pay entering the employment of the United States and receiving an additional Government pay. Now, it is very difficult for a man in civil life to enter into competition with Army officers drawing two pays. If an Army officer is physically incapacitated so that he can not work for the United States Government and he is retired for that reason and receives a pension, it seems strange that the next week he can turn around and obtain employment by the same Government and receive pay for his services, thereby receiving two salaries.

Mr. DICKSTEIN. Will the gentleman yield?

Mr. LA GUARDIA. I will.

Mr. DICKSTEIN. Is that occurring at the present time of the year or last year or two years ago?

Mr. LA GUARDIA. It is going on right now.

Mr. DICKSTEIN. Men getting two salaries after they are retired?

Mr. LA GUARDIA. Yes.

Mr. DICKSTEIN. What officers?

Mr. LA GUARDIA. Why we had General Andrews on retired pay, we had Major Mills, Barnett—

Mr. DICKSTEIN. The Government is employing them after they are retired?

Mr. LA GUARDIA. Yes; that is going on right now, and it is manifestly unfair that other men have to come in and compete with those men who for some reason or other are preferred. Now, this ought to be stopped.

I provide in my amendment a limitation on the appropriation prohibiting the payment of retired pay to those receiving an additional Government salary of \$2,500. I do not want to hurt the old soldier who is getting \$30 a month pension and perhaps has a position as watchman or janitor paying him \$1,200 or \$1,500 a year. That is not the purpose of my amendment. Its purpose is to put an end to practically young men who manage to be retired drawing a good pension and then immediately obtaining other Government employment. A youngster entering the Army at 22 retires at about 55 on three-fourths of his base pay, and if he has the slightest disability he may retire at 40 or 45 years of age. Gentlemen, you provide in this bill millions of dollars of pensions for officers on three-quarters base pay and allow them to retire after actual 30 years' service and sometimes less. We have on the Speaker's table a bill and a rule providing for its consideration at any time that it is called up giving the civil-service employees a slight increase in retired pay and even then the maximum would be only \$1,200, and we can not get a vote on it. Our whole retirement system is inconsistent and unjust. The poor civil-service employees, who pay for most of the cost, can not even obtain a maximum of \$1,200, and Army officers are retired at comparatively young age on handsome pensions.

Mr. HUDSON. Will the gentleman yield?

Mr. LA GUARDIA. I will.

Mr. HUDSON. Under the gentleman's proviso about what salary will be paid the retired officer when he gets—

Mr. LA GUARDIA. Oh, it depends upon the position with the Government he may obtain.

Mr. HUDSON. I thought possibly the gentleman had figured out as to what the average would be. In other words, suppose you take the retired officer who goes back into service and accepts a salary on which he could not live and—

Mr. LA GUARDIA. But you expect everybody else to do it, that is my point. That is exactly my point. If a man in my district and your district or my State and your State enters the Government service and takes a position that pays a certain salary and a retired officer comes in and takes over a job and also gets his retired pay, of course it is discrimination against the citizens of your State and my State.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LA GUARDIA. I would ask for three additional minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. NEWTON. Will the gentleman yield?

Mr. LA GUARDIA. I will.

Mr. NEWTON. Can the gentleman in the course of his study of this question tell the committee about how many officers who are drawing retired pay who are now working for the Government and receiving more than \$2,500?

Mr. LA GUARDIA. The number has nothing to do with it. There should not be one.

Mr. NEWTON. The gentleman is proposing an amendment here and asking the committee to pass upon it. Now, it seems to me it is rather pertinent to ascertain whether there are any who are drawing the pay and how many there are.

Mr. LA GUARDIA. There are some.

Mr. NEWTON. If there are, who are they and how many of them are there?

Mr. LA GUARDIA. The personality of the officers has nothing to do with it.

Mr. NEWTON. Yes; but who they are and how many there are has something to do with it.

Mr. LA GUARDIA. If it is wrong for one, it is wrong for 100,000.

Mr. BACON. I do not think the gentleman has made a careful study of this question.

Mr. LA GUARDIA. This question has been put before the committee from year to year.

Mr. BACON. Why has not the gentleman made some investigation of this subject, so that he could give us some facts? Does the gentleman know of any case? Can the gentleman give us some numbers?

Mr. LA GUARDIA. The gentleman knows that it is contrary to the law for any civil employee of the United States to draw two salaries unless he happens to be a retired officer of the

Army or Navy—then an exception is made and the retired officer is permitted to draw two pays. These men are favored. It is unjust. It is not right. The exception to the law is contrary to its very spirit and purpose.

Mr. COOPER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. COOPER of Wisconsin. Suppose a man is an officer at 22 years of age. When under the law does he retire?

Mr. LAGUARDIA. It might be after 30 years, or 20 years, or 15 years if he has had some slight disability. If a man loses a finger or has a slight disability, he can retire on three-quarters pay. Such officers do not contribute a cent to the officers' retirement fund, whereas in the civil service employees contribute to their retirement fund and receive a most measly allowance?

Mr. COOPER of Wisconsin. What is his allowance?

Mr. LAGUARDIA. The retired officer's allowance is three-quarters of his pay at the time of retirement.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BARBOUR. Mr. Chairman, I think the discussion of this amendment shows the unwisdom of trying to legislate—and that is the character of this amendment, legislation—on an appropriation bill. Questions have been asked here going right to the merits of the whole proposition, upon which we have been unable to get any information at all, and for that reason it is unwise to undertake to change substantive law that has been in effect for years by an amendment under the guise of a limitation on an appropriation bill.

Here is a question that is important: As to the merits of it we do not know, because the gentleman from New York [Mr. LAGUARDIA], when asked material questions, did not have the information desired. It seems to me that a proposition of this kind should be made in the regular way and brought in here as legislation and considered by the House as legislation, so that the House could be fully advised as to what the effect of the legislation will be.

Mr. LAGUARDIA. I ask the chairman of the subcommittee in charge of this bill appropriating millions of dollars for retired pay if he knows the number of retired officers drawing retired pay.

Mr. BARBOUR. I do not know how many are drawing retired pay and other pay in addition thereto.

Mr. LAGUARDIA. The gentleman should know.

Mr. BARBOUR. The gentleman from New York is the proponent of this amendment, and he should know.

Mr. LAGUARDIA. The gentleman from California is protecting this retired pay and he has brought in an appropriation covering it. His attention was drawn to it before. If the gentleman does not know what is going on, it is his responsibility and not mine.

Mr. WAINWRIGHT. Mr. Chairman, will the gentleman give way for a question?

Mr. BARBOUR. Let me first finish my statement. The gentleman from New York has offered an amendment, and the burden is on him to give the information desired respecting it. This appropriation bill is brought in here making the same provision as has been provided for years past. The gentleman from New York wants to change it. If the House wants to change it without studying the effect of it, it can do so. The burden here is on the gentleman who offered the amendment to give the facts and figures to sustain his amendment. The law on the subject is this. I read:

Double salaries: Unless otherwise specifically authorized by law, no money appropriated by any act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum. (R. S., sec. 1763; May 10, 1916, c. 117, sec. 6, 39 Stat. 120; Aug. 29, 1916, c. 417, 39 Stat. 582.)

Now, there is an exception to that law, evidently passed for some purpose, and the exception is section 59. I read:

Same; exceptions; retired officers and enlisted men of Army, Navy, Marine Corps, or Coast Guard, or officers and enlisted men of militia. Section 58 of this title shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia. (May 10, 1916, c. 117, sec. 6, 39 Stat. 120; Aug. 29, 1916, c. 417, 39 Stat. 582.)

When that law was passed, for some reason an exception was made in these cases, but we have not had an opportunity to find out the reason. This amendment of the gentleman from New York comes in under the guise of a limitation to strike out that exception.

Mr. DICKSTEIN. When was that law passed?

Mr. BARBOUR. In 1916.

Mr. DICKSTEIN. The appropriation has been made from year to year?

Mr. BARBOUR. Yes. The appropriation has been made from year to year. A few years ago there was incorporated in the appropriation bill this provision, and it has been carried in this bill ever since:

None of the money appropriated in this act shall be used to pay any officer on the retired list of the Army who for himself or for others engages in the selling, contracting for the sale of, negotiating for the sale of, or furnishing to the Army or the War Department any supplies, materials, equipment, lands, buildings, plants, vessels, or munitions. None of the money appropriated in this act shall be paid to any officer on the retired list of the Army who, having been retired before reaching the age of 64, is employed in the United States or its possessions by any individual, partnership, corporation, or association regularly or frequently engaged in making direct sales of any merchandise or material to the War Department or the Army.

That is to keep a retired officer of the Army from going to work for some commercial concern that sells materials to the Army and drawing his retired pay at the same time.

Mr. GARRETT of Texas. And dealing with his former associates in the Army.

Mr. BARBOUR. And dealing with his former associates in the Army, as the gentleman from Texas suggests. That bars them from engaging in that kind of an activity.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. LAGUARDIA. There is nothing which prevents an officer from waiving his pay and then dealing with his former associates?

Mr. BARBOUR. No; that can be done.

Mr. LAGUARDIA. That being so, how can the gentleman distinguish between the limitation in his own bill and my limitation?

Mr. BARBOUR. I do not think the gentleman's limitation applies to retired officers engaged in the business of selling supplies and materials to the War Department. My understanding is that there are certain officers of the Government, who are retired Army officers, whose salaries are fixed at a certain amount; they draw their retired pay, but they do not draw the full amount of their other salary; they draw their retired pay and enough in addition to make up what their salary would be. I understand that is true in the case of the Director of the Budget, who is a retired Army officer, and if my information is correct that is true in the cases of other officers. So it is apparent on the face of it that there are many questions involved here, and if anything of this kind is to be done we should take time to look into the matter and see what the effect of such action will be.

Mr. VESTAL. Will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. VESTAL. It appears to me that the amendment offered by the gentleman from New York has some merit in it.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BARBOUR. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. The gentleman from California asks unanimous consent to proceed for one additional minute. Is there objection?

There was no objection.

Mr. VESTAL. As I say, it looks to me as though this amendment may have some merit in it, but from the statement made by the chairman of the subcommittee it seems to me the amendment ought not to be voted into this bill at this time but that there ought to be some consideration given to the proposition, because, as I say, on the face of it it appears to have some merit in it. However, I would not want to vote for this amendment in face of what the chairman of the subcommittee has said.

Mr. LAGUARDIA. With all due deference to the chairman, he has not said very much with reference to my amendment.

The CHAIRMAN. The time of the gentleman from California has again expired. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

#### EXPENSES OF COURTS-MARTIAL

For expenses of courts-martial, courts of inquiry, military commissions, boards, and compensation of reporters and witnesses attending same, contract stenographic reporting services, and expenses of taking depositions and securing other evidence for use before the same, \$80,000.

Mr. JAMES. Mr. Chairman, I make the point of order that in line 12, page 13, after the word "commissions" the word "retiring" has been omitted. The law provides for retiring boards; but on page 13, line 12, after the word "commissions" the word "retiring" is omitted. On August 8, 1928, the Comptroller General rendered a decision in this respect and certain gentlemen in the War Department wish to nullify that decision by having the new change in language. When the matter was before the subcommittee the members of the subcommittee admitted it was legislation. In addition, I have a letter here from the office of the Judge Advocate General in which they also admit that it is legislation.

Mr. BARBOUR. Does the gentleman make the point of order?

Mr. JAMES. I do.

Mr. BARBOUR. Mr. Chairman, the gentleman has stated the purpose of this. The committee made the change in the bill at the request of these officials of the War Department who were hampered by this decision of the Comptroller General. I think the point of order is good, if the gentleman insists on it. I would like to offer the suggestion, though, Mr. Chairman, that the paragraph itself has legislation in it. For instance, the paragraph provides for contract stenographic reporting services, which, I understand, are not authorized by law but have been carried in this bill for years as a formal matter; and the matter objected to by the gentleman from Michigan as being legislation is legislation in a section that is in itself legislation and has been heretofore carried.

The CHAIRMAN. Does the gentleman from California concede the point of order?

Mr. BARBOUR. I concede the point of order; yes.

The CHAIRMAN. Does the gentleman from Michigan [Mr. JAMES] make his point of order against one word or against the entire paragraph?

Mr. JAMES. I make the point of order because the word "retiring" has been omitted. It will be satisfactory to me if the chairman of the subcommittee would offer an amendment putting back the word "retiring."

Mr. LA GUARDIA. Where would that word go in the paragraph?

Mr. JAMES. It has been omitted from line 5 after the word "commissions."

Mr. LA GUARDIA. How does the gentleman from Michigan suggest that it should read?

Mr. JAMES. "Retiring boards."

Mr. BURTNESS. In other words, if the gentleman will permit, there is now authority to pay these expenses for retiring boards, but no legislative authority for boards other than retiring boards; that is the actual situation?

Mr. JAMES. That is right; yes.

The CHAIRMAN. Does the Chair understand that the gentleman from Michigan objects to the entire paragraph on account of the one offending word or does the gentleman simply make a point of order against one word?

Mr. JAMES. I make the point of order against the word "retiring."

The CHAIRMAN. That word is not in the paragraph.

Mr. JAMES. It ought to be in the paragraph. I make the point of order against the word "boards."

The CHAIRMAN. The Chair sustains the point of order, and the word "boards" goes out of the paragraph.

The Clerk read as follows:

#### APPREHENSION OF DESERTERS, ETC.

For the apprehension, securing, and delivering of soldiers absent without leave and of deserters, including escaped military prisoners, and the expenses incident to their pursuit; and no greater sum than \$50 for each deserter or escaped military prisoner shall, in the discretion of the Secretary of War, be paid to any civil officer or citizen for such services and expenses; for a donation of \$10 to each prisoner discharged otherwise than honorably upon his release from confinement under court-martial sentence involving dishonorable discharge, \$110,000.

Mr. LA GUARDIA. Mr. Chairman, I offer an amendment. On page 13, line 20, strike out "\$50" and insert in lieu thereof "\$10"; and on page 14, line 2, strike out "\$110,000" and insert in lieu thereof "\$30,000."

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LA GUARDIA: On page 13, in line 20, strike out "\$50" and insert in lieu thereof "\$10"; and on page 14, in line 2, strike out "\$110,000" and insert in lieu thereof "\$30,000."

Mr. LA GUARDIA. Mr. Chairman, with all due deference to the great Appropriations Committee, which has a complete monopoly on all knowledge, military and otherwise, and resents

any suggestions, I want to point out to the committee the grave abuses that exist in the apprehension of deserters and the payment of these rewards; particularly is this so in the large cities where the "desertion business" has developed into a regular industry.

Young men are enticed from their posts or ships, encouraged to desert, in some cases employment is found for them, and when the statutory period expires making them deserters they are apprehended by the same men who enticed them to desert and turned back for the sole purpose of obtaining this reward. Everybody in the Army knows this is so. Yes; I would say to the committee, if I may be permitted, that I simply tremble in fear every time I take the floor and make the slightest suggestion to the Committee on Appropriations.

The gentleman from California [Mr. BARBOUR] just a moment ago made a speech which was the best argument for my amendment, and then urged the House to vote it down. Then he criticized the gentleman from New York because he did not give sufficient facts, but the gentleman from California, with all his hearings here [exhibiting], thousands of pages, did not know anything about the whole retirement system in the United States Army. The law he quoted proved conclusively the unfair exception made in favor of retired Army officers.

Now, gentlemen, there is a bad condition concerning desertion in the Army. As pointed out a few days ago on the floor of the House, in speaking of the desertions, they give us the figures in percentages, because 5 per cent does not sound like very much; but there were over 5,000 desertions in one year—over one entire regiment of your entire Army deserted in one year.

Mr. BURTNESS. Will there be more or less desertion if this amendment is adopted?

Mr. LA GUARDIA. I think there will be less. I think it is worth while trying for a year. I really believe in a great many of the desertions the boys are enticed to go away and are then brought back.

Mr. BURTNESS. Why not try to change it to \$25?

Mr. LA GUARDIA. I will compromise at \$25. I am not the Committee on Appropriations. I admit I am wrong often, and that is why I am not on this great committee. I have not any of the atmosphere of infallibility about me. If the gentleman from California will accept a compromise of \$25, let us try it for one year, because you have a bad condition. All I am trying to do is to remedy conditions which should not exist.

Mr. BARBOUR. Mr. Chairman, the Committee on Appropriations in considering this item and passing on it, reduced the amount from \$170,000 recommended by the Bureau of the Budget, to \$110,000. We cut the estimate \$60,000.

Mr. LA GUARDIA. But not the amount of the reward.

Mr. BARBOUR. No; the amount of the reward is the same. As I understand the law on the subject, it is that the Secretary of War is authorized to pay a reward for the capture of deserters not in excess of \$50. The testimony before the subcommittee, as I remember it, was that in many cases less than \$50 is paid, and in many cases \$50 does not even reimburse them for the expense of returning the deserter.

There is another item in here, but I think the amendment of the gentleman from New York takes care of that. There is \$30,000 in here for the payment of \$10 to each discharged prisoner from a military prison. I believe it is the intent of the gentleman from New York to retain that item?

Mr. LA GUARDIA. Yes.

Mr. BARBOUR. The committee feels, however, that the reduction it has already made in the amount recommended by the Bureau of the Budget is sufficient.

This is another one of those amendments that seeks to change law that has been in existence for a long time, and we do not have an opportunity, when it comes up as an amendment on an appropriation bill, to go into the merits of it and determine just what the effect of it will be.

Mr. LA GUARDIA. Will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. LA GUARDIA. I know the gentleman wants to be fair in stating the facts.

Mr. BARBOUR. I am trying to be.

Mr. LA GUARDIA. What expense can there possibly be to anyone receiving the reward in connection with the delivery of a prisoner?

Mr. BARBOUR. I did not hear the gentleman's question.

Mr. LA GUARDIA. The gentleman said that in many instances the \$50 reward did not even pay the expenses. Anyone delivering a prisoner can not have any expenses.

Mr. BARBOUR. Oh, yes.

Mr. LA GUARDIA. He can not take them into custody; he can not feed them; he can detain them.

Mr. BARBOUR. He must.

Mr. LAGUARDIA. Under what authority of law does a private citizen have any right to arrest a deserter?

Mr. BARBOUR. A deserter has violated the law. The sheriff, for instance, or a constable or a police officer picks up a deserter, say, two or three hundred miles from the nearest Army post. In order to collect the \$50 reward he must return the deserter to the nearest Army post. That is correct, is it not?

Mr. LAGUARDIA. No.

Mr. CLAGUE. Oh, yes; surely it is correct.

Mr. LAGUARDIA. A private citizen can not take a deserter over into custody.

Mr. BARBOUR. A police officer arrests him upon the ground that he is a deserter.

Mr. LAGUARDIA. And informs the nearest military authority, and then they send a patrol for him.

Mr. BARBOUR. Oh, no. He has to deliver the deserter at the nearest military post to collect his \$50; but the testimony is that in many cases \$50 will not pay the expense, and for that reason a lot of deserters are not returned, because peace officers will not pay money out of their own pockets in order to do it.

Mr. LAGUARDIA. And the military authorities will not send for a deserter when they know where he is?

Mr. BARBOUR. Oh, lots of times they are picked up by soldiers, but we are talking about the men who collect the \$50. That man must deliver the prisoner to the nearest military post in order to collect the \$50. The gentleman stated a moment ago that he was willing to agree on \$25, and in that case the amount of this appropriation would be \$100,000.

Mr. LAGUARDIA. Very well. Make it \$100,000.

Mr. BARBOUR. The bill carries a hundred and ten thousand dollars, which is only \$10,000 more than that, so that the gentleman and the committee are not very far apart if we stick to the total now in the bill.

Mr. LAGUARDIA. I am not concerned with the total. I am concerned with the maximum amount that shall be paid as a reward. If the gentleman will take \$25 instead of \$50, that is satisfactory to me, and I am not concerned with the total.

Mr. O'CONNOR of Louisiana. Does the gentleman from New York mean to say that there is a number of well-established cases where certain men deliberately frame soldiers, get them drunk, and have them desert and then have them arrested in order to make \$50?

Mr. LAGUARDIA. Yes.

Mr. O'CONNOR of Louisiana. Where does that practice obtain?

Mr. LAGUARDIA. In all of the large centers. I get that from the Army men themselves.

Mr. SCHAFER. That practice does not obtain in our city of Milwaukee.

Mr. LAGUARDIA. Have you not any soldiers there?

Mr. SCHAFER. Oh, yes; we have many of them.

Mr. O'CONNOR of Louisiana. How many of these cases occur in the city of New York, for instance?

Mr. LAGUARDIA. I do not know.

Mr. BARBOUR. Is it the gentleman's proposition to leave the amount at \$110,000 and change the maximum amount that can be paid for apprehending a deserter to \$25?

Mr. LAGUARDIA. If the gentleman will accept that, I shall accept the other part of it.

Mr. BARBOUR. We will accept the gentleman's amendment.

Mr. LAGUARDIA. Then, Mr. Chairman, I ask unanimous consent to amend my amendment by inserting \$25 in place of \$10.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The Clerk read as follows:

Modified amendment by Mr. LAGUARDIA: Page 13, line 20, strike out "\$50" and insert "\$25."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was agreed to.

The Clerk read as follows:

None of the funds appropriated in this act shall be used for payment of expenses of operating any utility or instrumentality of the War Department selling services or supplies at which the cost of the services or supplies so sold does not include all customary overhead costs of labor, rent, light, heat, and other expenses properly chargeable to the conduct of such utility or instrumentality: *Provided*, That no such utility or instrumentality shall procure for sale any article not regularly carried in stock.

Mr. JAMES. Mr. Chairman, I make the point of order to the language in line 22, on page 16, commencing with the words:

*Provided*, That no such utility or instrumentality shall procure for sale any article not regularly carried in stock.

I do this because it is legislation unauthorized by law on an appropriation bill. Also I make the further point of order to the language in line 17, on page 16, to the words "utility or instrumentality," and the same on line 22, as to the words "utility or instrumentality." I do that for the same reason that it is new legislation.

The CHAIRMAN. What is the ground of the gentleman's point of order?

Mr. JAMES. It is new legislation. It applies to post exchanges. There is nothing in this bill where we are appropriating money for post exchanges. The post exchanges are conducted by money furnished by the troops themselves—the enlisted men.

Mr. BARBOUR. Mr. Chairman, the position of the subcommittee is that this is a limitation upon the expenditure of these funds, the purpose for which they may be expended.

Mr. JAMES. But we do not appropriate any money for post exchanges. The post exchanges are run by the men themselves.

Mr. BARBOUR. On page 9 of the bill there is an appropriation for military post exchanges, and the amount carried is \$72,000. There are a lot of expenses in connection with military post exchanges not borne by the exchanges themselves, and this is a limitation on those funds.

Mr. JAMES. Even conceding that; the gentleman said a while ago, in response to the LaGuardia amendment, that matters of legislation that come up suddenly ought to be considered by the proper committee, which in this case is the Committee on Military Affairs. There is nothing to show there has been any abuse by the post exchanges. There is nothing in here to show that the post exchanges have sold anything they ought not to sell.

Mr. GARRETT of Texas. Is it not true that post exchanges are for the benefit of enlisted men? That is the only place where they can go. The officers can go down town, but the enlisted men go to the post exchange and there make their little bargains of things which they desire.

Mr. LAGUARDIA. The very purpose of the post exchange is to give these soldiers who get \$24 a month an opportunity to buy the necessities of life at actual cost.

Mr. JAMES. That is the reason they were established.

Mr. LAGUARDIA. Some mushroom or little stands around the post exchange come in and succeed in having this written into the bill.

Mr. WAINWRIGHT. I would like to call attention to the section on page 9, to which the chairman of the subcommittee called attention, providing for an appropriation of \$72,000, which does not seem to cover purchase of supplies but simply for the conduct of the post exchange. Let me read the paragraph:

For the equipment and conduct of the post exchange, school, reading, lunch, and amusement rooms, service clubs, chapels, gymnasiums, and libraries, including periodicals and other publications and subscriptions for newspapers for which payment may be made in advance, and including salaries and travel for civilians employed in the hostess and library services, and for transportation of books and equipment for these services; for the rental of films, purchase of slides for and making repairs to moving-picture outfits, and for similar and other recreational purposes at training and mobilization camps now established or which may be hereafter established, \$72,000.

There is nothing about the purchase of such supplies as mentioned with the \$72,000.

Mr. LAGUARDIA. That is the method of approach, by a limitation of this kind. It would be impossible for an enlisted man working around a post exchange to get any benefit.

Mr. SHALLENBERGER. The purpose of the new legislation does not provide for any saving to the United States Government which might accrue under the operation of this particular amendment, but this is to be paid by those who enjoy the benefits. This stops the purchase of certain things under this bill, but it does not provide for a saving by a reduction of expenses of the United States Government.

Mr. HILL of Alabama. These purchases are made not by funds of the Federal Government but by the funds of the men themselves. Even if there should be a retrenchment, it would not be a retrenchment of the funds of the Government, but in the conduct of the organization.

Mr. SHALLENBERGER. And a part of the expenses are paid by those who enjoy the privileges but not by the Federal Government.

Mr. JAMES. By the men of our Military Establishment.

The CHAIRMAN. The Chair would like to ask the gentleman from California whether this limitation applies to anything other than the expenditure of funds authorized by this appropriation bill?

Mr. BARBOUR. It is a limitation to the funds carried in this bill. None of those other funds that have been referred to are appropriated in this act.

Mr. JAMES. If you will examine the hearings you will find that it all revolves around the post exchange. We contribute nothing to the financing of the post exchanges.

The CHAIRMAN. The Chair would call the attention of the gentleman to the code, title 10, section 1231, which provides as follows:

Sale price of quartermaster supplies: Authorized sales of clothing and other quartermaster supplies shall be for cash or on credit at the average current prices plus all overhead costs, to be determined and fixed by the Secretary of War. (June 30, 1922, c. 253, Title I, 42 Stat. 729.)

Mr. JAMES. Mr. Chairman, the Secretary of War has nothing at all to do with the regulation of prices charged at the post exchange.

The CHAIRMAN. The Chair is trying to find out what this limitation has to do with the post exchange. It does not clearly appear on the face of it that it has anything to do with the post exchange.

Mr. JAMES. If you will read the hearings you will find that it applies only to the post exchange.

Mr. BARBOUR. Yes. It all applies to the post exchanges.

The CHAIRMAN. Then does it limit the post exchange in its expenditure of funds other than those carried in this appropriation bill?

Mr. BARBOUR. No. It simply limits funds carried in this bill. But the other post exchange funds are not affected.

Mr. CONNALLY of Texas. Mr. Chairman, everything in the bill is included in this act. If the post exchanges are conducted by the enlisted men the amendment properly could not limit it, because it would not be a Government expenditure. Therefore the rule of limitation would not apply.

The CHAIRMAN. The Chair is trying to find out whether it applies to funds other than those carried in this act.

Mr. CONNALLY of Texas. The gentleman from California says this is a fund to start the post exchanges, and then the exchange is carried on further by the men.

Mr. BARBOUR. It would apply only to funds carried in this bill.

Mr. CONNALLY of Texas. It goes further than a limitation. They can expend these funds provided they add to it the cost of overhead. Thereby a limitation is imposed.

The CHAIRMAN. But in section 1231, title 10, of the code, as read by the Chair, it is provided that in determining the cost it is required to include the cost of overhead.

Mr. CONNALLY of Texas. The limitation says the funds shall be expended only for certain purposes. This is legislation attempted under the guise of a limitation. In other words, it is going to prevent these men from adding the overhead to the cost.

Mr. JAMES. The last proviso says:

*Provided, That no such utility or instrumentality shall procure for sale any article not regularly carried in stock.*

In other words, a post exchange with its own money could not buy a radio set or a kodak to supply it to these men unless it was carried in stock. I make a point of order against that particular proviso. My first point of order was on that particular proviso.

The CHAIRMAN. Then the Chair will sustain that point of order.

Mr. LaGUARDIA. Mr. Chairman, I move to strike out all on page 16 from line 16 to line 22, inclusive.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

Amendment offered by Mr. LaGUARDIA: Page 16, line 16, strike out all of line 16 to line 22, inclusive.

Mr. LaGUARDIA. Mr. Chairman, this is the result that the gentleman from Michigan [Mr. JAMES] desired to obtain by his first point of order. The situation is this: At every military post there is a post exchange; just a store, selling the things that the men need around the post. There has been some agitation against these post exchanges by small business men who establish themselves in the vicinity of the post, claiming that by reason of the fact that rent and light and heat are not properly included in the retail prices of commodities sold in the post exchange, such as chewing gum and cigarettes, these independent outside establishments are at a disadvantage in carrying on their business.

There is a very good reason for the post exchanges. First, they give the soldier an opportunity to buy at practically cost

the things he needs; and second, in many instances in these little stores around a military post there is a back room, a rear room behind the front store where craps are played, or other plants to get the soldier's money. Now the post exchanges are very useful. It is a very picaresque matter to attempt to add overhead expenses which really do not exist, in order to increase the cost to the soldiers. This very bill provides for an appropriation of \$72,000, as pointed out by the gentleman from California, for the purpose of keeping these post exchanges going. That in itself shows that they are wanted, that they are needed and that they are necessary. Now, to provide an artificial overhead expense simply to make prices the same as in stores outside of the post destroys the very purpose of the exchange. I hope the committee will agree to the striking out of this paragraph and leaving the exchanges as they were and have been for the last 40 or 50 years. That is all there is to it.

Mr. JAMES. Up to a short time ago, and until the new ration went into effect, the men were paying for a part of their own food, and a good deal of the money they made on the post exchanges went into their food.

Mr. LaGUARDIA. It does yet.

Mr. JAMES. We should not penalize them because of this profit, because it enables them to purchase a radio or to fix up their rooms. By doing this we are not penalizing the officers, but we are penalizing the enlisted men.

Mr. LaGUARDIA. And the money also goes for athletics. They buy their balls and bats and everything like that out of the company funds. I hope the amendment will be adopted.

Mr. BARBOUR. Mr. Chairman, the language now contained in the paragraph, with the proviso stricken out, is practically the language of the substantive law, and that would be effective anyway. This simply applies the substantive law to these particular funds, and there is, perhaps, no necessity for making that application.

I think from the discussion here, Mr. Chairman, that there is possibly a misunderstanding with regard to the purpose of this proviso to which a point of order has been sustained. It was not the intention of the committee to in any way hamper the operations of these post exchanges. They are a very fine thing and they render a great service not only to the enlisted men at the various posts, but also to the officers and their families, and the very fact that we carry over \$70,000 in the bill to help pay the expenses of the post exchanges is evidence of the fact that the committee is not unfriendly to the post exchanges. However, it was brought to the attention of the committee that some of the post exchanges had no limitation whatsoever on the articles sold. They were not such as enlisted men would buy; they were special articles that outside people might want. We were told, for instance, that through a friend at the post a civilian could buy a wrist watch, a radio set, or almost anything.

Mr. COLLINS. And evening dresses.

Mr. BARBOUR. Evening dresses, if you please, and obtain them at reduced prices. Now, the merchants in some of these towns, who were paying local taxes, rents, and things of that kind, felt that they should not be compelled to meet that kind of competition.

They had no objection to the ordinary operations of the post exchanges for the benefit of persons on the post. A short time ago it was brought to our attention that one of these post exchanges advertised in a near-by paper that it had on hand a large supply of Christmas toys which were available to anyone who wanted to come to the post and buy them. That is competition with the local merchants, which we thought was possibly going a little too far in the conduct of post exchanges, and that was the purpose of putting this proviso in the bill. It was not put in the bill for the purpose of restricting the operations of the post exchanges so far as the enlisted men, the officers, and their families were concerned.

Mr. CONNALLY of Texas. Will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. CONNALLY of Texas. Would it not be better to put in a proviso restricting the sale of these articles rather than to undertake to tell them how to run the post exchanges?

Mr. BARBOUR. That was intended to be the purpose of the proviso. The proviso is—

*That no such utility or instrumentality shall procure for sale any article not regularly carried in stock.*

Mr. CONNALLY of Texas. Then they would just increase their stock and they could carry all they pleased.

Mr. BARBOUR. I realize that the words "regularly carried in stock" are open to construction and that that language is more or less elastic.

Mr. CONNALLY of Texas. Why not restrict it to the soldiers and officers and not let the public buy?

Mr. BARBOUR. The committee did not feel that it cared to go that far, I will say to the gentleman from Texas, and that if we did go that far it would be legislation.

Mr. JAMES. Does not the gentleman think they should sell to the civilian employees of the Government?

Mr. BARBOUR. There is no question about that.

Mr. HILL of Alabama. The proviso has gone out on a point of order, so there is no use in discussing it. Would it not be better to restrict them by some limitation as to how these products should be sold rather than to increase the overhead cost? Increasing the overhead cost will not necessarily stop these abuses.

Mr. BARBOUR. When you do that, I will say to the gentleman from Alabama, you have pretty nearly got to enumerate a list of articles in here. It would be rather difficult to describe them in general language, and at the same time would not that be legislation that should come from the Committee on Military Affairs, of which the gentleman from Alabama is a member?

Mr. HILL of Alabama. If it is legislation, then I should think it ought to come from the Committee on Military Affairs.

Mr. BARBOUR. I agree with the gentleman on that.

Mr. CONNALLY of Texas. Will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. CONNALLY of Texas. When the gentleman requires overhead to be placed on these articles that they ought not to buy, he also includes overhead on those things that they are in the habit of buying.

Mr. BARBOUR. That has always been done.

Mr. CONNALLY of Texas. So what you are really doing, in order to rid these local merchants of this competition on things that they ought not to sell through the exchange, is to make them compete in the exchange on everything. Why have an exchange if you are going to put them on a parity with the merchants in the town?

Mr. BARBOUR. There is no intention to put them on a parity with other merchants. As to overhead, they have always charged a certain amount for that in order to cover certain of the expenses of the exchanges that are not covered by this fund.

Mr. CONNALLY of Texas. Your \$72,000 is overhead?

Mr. BARBOUR. That is for part of the overhead; yes.

The CHAIRMAN (Mr. KETCHAM). The time of the gentleman has expired. The question is on the amendment offered by the gentleman from New York [Mr. LaGUARDIA].

The question was taken; and on a division (demanded by Mr. HILL of Alabama, there were—ayes 25, noes 9.

So the amendment was agreed to.

The Clerk read as follows:

Clothing and equipage: For cloth, woolens, materials, and for the purchase and manufacture of clothing for the Army, including retired enlisted men when ordered to active duty, for issue and for sale; for payment of commutation of clothing due to warrant officers of the Mine Planter Service and to enlisted men; for altering and fitting clothing and washing and cleaning when necessary; for operation of laundries, including purchase and repair of laundry machinery; for the authorized issues of laundry materials for use of general prisoners confined at military posts without pay or allowances, and for applicants for enlistment while held under observation; for equipment and repair of equipment of dry-cleaning plants, salvage and sorting storehouses, hat repairing shops, shoe repair shops, clothing repair shops, and garbage reduction works; for equipage, including authorized issues of toilet articles, barbers' and tailors' materials, for use of general prisoners confined at military posts without pay or allowances and applicants for enlistment while held under observation; issue of toilet kits to recruits upon their first enlistment, and issue of housewives to the Army; for expenses of packing and handling and similar necessities; for a suit of citizen's outer clothing and when necessary an overcoat, the cost of all not to exceed \$30, to be issued to each soldier discharged otherwise than honorably, to each enlisted man convicted by civil court for an offense resulting in confinement in a penitentiary or other civil prison, and to each enlisted man ordered interned by reason of the fact that he is an alien enemy, or, for the same reason, discharged without internment; for indemnity to officers and men of the Army for clothing and bedding, etc., destroyed since April 22, 1898, by order of medical officers of the Army for sanitary reasons, \$5,832,067, of which amount not exceeding \$36,000 shall be available immediately for the procurement of fuel for the service of the fiscal year 1930.

Mr. LaGUARDIA. Mr. Chairman, I move to strike out the last word.

I do this for the purpose of asking the chairman if the amount appropriated contemplates the purchase, this year or the next year, of blue uniforms for the soldiers?

Mr. BARBOUR. I will state to the gentleman from New York that nothing is included in this bill for that purpose.

Mr. LaGUARDIA. The committee, of course, went into that matter?

Mr. BARBOUR. The committee went into it quite fully.

Mr. LaGUARDIA. I notice the War Department has issued an order reinstating the old blue uniform.

Mr. BARBOUR. The Secretary of War, I believe.

Mr. LaGUARDIA. Just why that was done it is very difficult to understand. The trim looking khaki uniform is, of course, very military and very serviceable. They are going back to the antiquated blue, opera bouffe uniform, which, with colored epaulettes and gold lace, I suppose, may be conducive to vanity, but not to the morale of an army. Now, in keeping with this dress parade, if next year they come along and say, "Now, we want the soldiers to have blue uniforms so that the ensemble or the color scheme will fit in," I want to point out that that is going to be a pretty big item.

Mr. BARBOUR. Yes; that would be a rather big item, and that is one reason why there is nothing in this bill for it.

Mr. LaGUARDIA. It is not the present intention of the committee to change the uniforms of the enlisted men to conform with the officers' uniforms?

Mr. BARBOUR. No. I understand, though, that the order issued by the Secretary of War goes so far that if an enlisted man sees fit to buy for himself out of his own funds a blue uniform there will be no objection to it.

Mr. LaGUARDIA. It is going to cause a funny combination if some of the boys are going to have blue uniforms and others khaki or the O. D.

Mr. BARBOUR. Of course, they would buy them by units. There would not be one man in khaki and another in blue in the same organization.

Mr. LaGUARDIA. If that is so we can reasonably expect in the next fiscal year a pretty big item for blue uniforms for the whole Army.

Mr. BARBOUR. Of course it is hard to tell what will come in the next year's bill, but let me say to the gentleman there has been for some time considerable talk about another uniform, a so-called dress uniform, for the enlisted men of the Regular Army. A lot of them would like to have a blue uniform. It is different and it is a change from the khaki. It is intended not as a service uniform at all, but to wear when they are about town or on parade or something of that kind. The idea is to have a uniform that will perhaps look a little better, as some of them think, than the khaki uniform. The khaki will remain as the service uniform. They will have khaki uniforms and then they will have what may be called a dress uniform or a better uniform than the uniforms they have when they are at drill or at work. It will be a dress uniform of a different color. This is what is being considered. It has not been decided definitely, although they are considering a blue uniform for the enlisted men.

Mr. LaGUARDIA. That is what I thought was coming.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Incidental expenses of the Army: Postage; hire of laborers in the Quartermaster Corps, including the care of officers' mounts when the same are furnished by the Government; compensation of clerks and other employees of the Quartermaster Corps, and clerks, foremen, watchmen, and organist for the United States disciplinary barracks, and incidental expenses of recruiting; for the operation of coffee-roasting plants; for payment of entrance fees for Army rifle and pistol teams participating in competitions; for tests and experimental and development work and scientific research to be performed by the Bureau of Standards for the Quartermaster Corps; for lecture fees at the Army Music School and such additional expenditures as are necessary and authorized by law in the movements and operation of the Army and at military posts, and not expressly assigned to any other department, \$3,898,496: *Provided*, That no appropriation contained in this act shall be available for any expense incident to the employment of a greater number of officers, enlisted men, or civilian employees in connection with work incident to the assurance of adequate provision for the mobilization of materiel and industrial organizations essential to war-time needs than were so employed during the fiscal year ending June 30, 1929.

Mr. WAINWRIGHT. Mr. Chairman, I move to strike out the proviso appearing on page 21, between lines 9 and 16.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WAINWRIGHT: Page 21, line 9, beginning with the word "provided," strike out all down to and including line 16, on page 21.

Mr. WAINWRIGHT. Mr. Chairman, this is the first indication of any inclination on the part of the committee to in any

way hamper, restrict, or curtail the very necessary work in connection with the industrial war plan and the plans for adequate supply of munitions and other matériel in time of war, which the law directs that the Assistant Secretary of War shall prepare. One lesson that came out of the war more than any other was the necessity of some plan or method of providing for the supply of the Army in the event of war. You will all recall the tremendous dislocation of industry and the great delay there was in supplying our expanded Army. When an army is expanded from 100,000 men to 3,000,000 men, the supplies will be expanded to a very much greater degree, and we all know that it was not until after the armistice that supplies for the Army really came through. Had it not been that we had allies who were supplying our combat armies in the field, we might have had a very different record from that which the American Army had in the war. Realizing the tremendous importance of that consideration, Congress, in the national defense act, reposed the duty of providing an adequate industrial war plan upon the Assistant Secretary of War. Paragraph 5-a of the national defense act made him responsible for the procurement of supplies in time of war and for the assurance of adequate materials, supplies, and industrial organization for war-time needs. That is a tremendous task. During the last eight years that work has been going on through organizations perfected by the Assistant Secretary of War. The Assistant Secretary of War under the law is intended to be what they call abroad the minister of munitions. His is a tremendously important office in view of the importance of the function cast upon him by the law. When we consider that the entire cost of this important work is less than \$250,000—\$214,130, to be exact—and, in addition, the amount required for training of reserve officers assigned for training in connection with procurement and the pay of the regular officers assigned to this duty, and that the Assistant Secretary of War has only 117 regular officers assigned to him, with a certain proportion of reserve officers who are called in for instruction as to what their duties will be in time of war, it seems almost unreasonable that the committee should undertake in the way they do by this proviso to curtail the activities of the Assistant Secretary of War. What is this proviso?

It is that there shall be no more officers or civilians or employees assigned to this work than were assigned in July, 1928. There is no necessity for any such limitation as that. I am sure the chairman of the subcommittee will agree with me that there has been no extravagance, that there has been no disposition on the part of the office of the Assistant Secretary of War to unduly expand this work. If the number of officers is curtailed, as proposed, it would seriously hamper the work of the Assistant Secretary of War. The number of officers he has for this purpose must in the nature of things be flexible. The appropriation itself, the allocation of funds for this activity, limits the amount that can be devoted to the purpose, and within the limitation of funds it seems to me it is unreasonable to put a limitation on him in respect to the number of people that he can use for the work.

For instance, at some part of the year he might wish to put on more men than at another part of the year, subsequently curtailing the number so as to keep within his limit.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. WAINWRIGHT. Mr. Chairman, I ask for one minute more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WAINWRIGHT. Therefore, Mr. Chairman, it seems to me that this proviso should go out and that the Assistant Secretary of War should not be hampered in the way that he will be by this amendment. When you think of the fact that you are appropriating here \$435,000,000 for the expenses of the War Department, and that there is less than a quarter of a million dollars devoted to this service, it seems to me that to attempt to cut that down by the very few thousand dollars that might be involved is, to say the least, unreasonable and unwise, and I trust that the amendment will be adopted.

Mr. COLLINS. Mr. Chairman and gentlemen of the committee, procurement planning is the old munitions battalion under a new name. It permits the Army to go into the fields and factories and railroads of the country, and in the event of war for the Army to take charge of them and run them. This language which the gentleman objects to prevents an expansion of this practice.

Mr. STEVENSON. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. Yes.

Mr. STEVENSON. What do they do when they go into the factories?

Mr. COLLINS. They go around and get an office in a city and a corps of stenographers and clerical help, and then appoint some aides, and mess around a factory, go in and look it over occasionally, and as far as real information is concerned, they get none. They do nothing that is worth a row of pins.

Mr. STEVENSON. Do the factories have any objection to that? The people down in my country do not like to have folks snooping around their business.

Mr. COLLINS. It is all done in the name of national defense.

Mr. WAINWRIGHT. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. Yes.

Mr. WAINWRIGHT. The gentleman does not contradict the fact that what the Assistant Secretary of War is doing is by virtue of the positive direction in the national defense act, and as long as the law is as it is the gentleman will not contend that he should not fulfill the duty that is cast upon him?

Mr. COLLINS. There are lots of things in the national defense act that this Congress does not approve. We do not want our factories and fields and our transportation companies managed by first and second lieutenants even in war times.

These jobs are sops for Army officers and without good to the Government. What good could come to this country if I were a second lieutenant to place me with the Pennsylvania Railroad for a year, and 20 years from now a war was declared to put me in charge of the operation and management of that railroad? I would know nothing, or scarcely nothing, about its affairs. It would be just the rankest sort of injustice to the road to expect me to correctly manage its affairs.

Mr. WAINWRIGHT. Will the gentleman yield for another question?

Mr. COLLINS. I do not think that this Congress wants to let that activity expand, and that is the purpose of this proviso. It is intended to keep it from expanding, and I think it is wise legislation. We do not want the farmers of this country and the factories of this country and the railroads of this country to be put in charge of and be operated by Army officers. It would seem that the rest of us have no patriotism. That the Army has a corner on it, and that we can not be trusted in war times or even in peace times. The carrying out of the Army program is a reflection on the civilian population of this country. If you strike out this amendment, then the Army can act without limit in expanding the activity. They will find a hole here and put 15 or 20 Army officers in it, and one over there and put some officers there, and scatter them all over the United States without limit. That is what was proposed last year, only on a more extensive scale. There was an item in the bill as it came to us then, and the item was to grow until there was approximately 35,000 such officers, and this committee killed it then, and General Summerall, in his testimony before the committee this year, evidently thought it dead. Procurement is the same work under a different name. There is not any other nation that has undertaken this sort of activity with its army. And aside from this, what is the use in the Government engaging in the foolish practice of permitting Army officers to take charge of the management of the factories, the mines, the fields, and the transportation companies of the country, the meddling with them under the pretext of national defense?

Mr. WAINWRIGHT. Mr. Chairman, I ask unanimous consent to proceed for three minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. WAINWRIGHT. Mr. Chairman, of course I approach this whole question of national defense from a different angle from that of the gentleman from Mississippi. I realize the gentleman from Mississippi prefers we do nothing to conserve our national defense—

Mr. COLLINS. I did not hear the gentleman.

Mr. WAINWRIGHT. I realize the gentleman from Mississippi, if he had his way, would do nothing to conserve our national defense by preparing—

Mr. COLLINS. The gentleman is very unkind. That is the way I am going to characterize it at the present time.

Mr. WAINWRIGHT. Of course, we can not approach the subject from the same angle. If it is necessary and advisable that we should have in time of war such a plan and planning agency and if the law so provides, manifestly the Assistant Secretary of War must proceed along these lines. What I am attempting to impress upon the committee is the view that the magnitude and importance of his task require him to do what

he has done and that what he is doing is entirely reasonable, proper, and in no way out of proportion.

Mr. O'CONNOR of Louisiana. Will the gentleman yield?

Mr. WAINWRIGHT. I will.

Mr. O'CONNOR of Louisiana. Does the gentleman think there is any strong sentiment in this or the other body looking to a strong policy of national defense at the present time?

Mr. WAINWRIGHT. Unfortunately I am afraid that is the fact. I am afraid we are beginning to slump back as we do after every war, and as in this case it seems to me we are not willing to adequately support absolutely necessary measures of national defense.

Mr. LaGUARDIA. Mr. Chairman, will the gentleman yield?

Mr. WAINWRIGHT. Yes.

Mr. LaGUARDIA. It is not because this House does not want to support a policy of strong national defense, but it is because the very people who are charged with the national defense have so loaded this bill that we are up now to \$385,000,000, and you can not possibly think of anything more to put into this bill.

Mr. WAINWRIGHT. May I say to the gentleman that, be that as it may, what we are discussing is a great proposition involving a very important activity of the War Department which ought not to be hampered in the way proposed?

Mr. SCHAFER. Mr. Chairman, will the gentleman yield?

Mr. WAINWRIGHT. Yes.

Mr. SCHAFER. Does the gentleman believe that one of these first or second lieutenants, in case a war should come upon us to-morrow or next month, could run these factories or operate these railroads better than the present owners are doing?

Mr. WAINWRIGHT. All the industries of the country during the war were left in the hands of their civilian owners. It would be the same also in the event of another war. The suggestions of the gentleman from Mississippi [Mr. COLLINS] were far from the details of the plan referred to.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BARBOUR. Mr. Chairman, this proviso is intended to place a limit upon the procurement activities of the War Department. No limit has been placed upon those activities heretofore. At the present time or by 1930 they will have 145 civilians engaged in this activity and 117 officers of the Army. They have offices, I believe, in 19 different cities in the United States. It is already a big activity in the War Department, and this committee thought it would be wise to put this limitation in the bill and provide that after June 30, 1929, no money should be expended to increase those activities. In other words, we will hold it down for a while until we can get some idea of what it will ultimately involve.

Mr. HILL of Alabama. How much is expended now?

Mr. BARBOUR. Two hundred and fourteen thousand dollars in addition to the pay of the Army officers.

Mr. TABER. There is a very considerable number of reserve officers working on this matter.

Mr. WAINWRIGHT. Most of them serve without pay.

Mr. TABER. They are on active duty part of the time.

Mr. BARBOUR. A lot of attention is being given to this procurement matter. It is not being neglected.

Mr. TABER. Is it not true, as the gentleman from Mississippi said, that it was proposed that these officers detached last year were to go into the factories and learn how to run the factories in case of war?

Mr. WAINWRIGHT. Mr. Chairman, I hope before the Chairman takes his seat he will tell us a little more about the importance of this work.

Mr. BARBOUR. I think the gentleman from New York has gone into that quite fully.

Mr. WAINWRIGHT. I would like to have the concurrence of the gentleman's committee.

Mr. BARBOUR. As I understand the situation, the Navy might step in, in case of an emergency, and take all of these activities away from the Army.

Mr. O'CONNOR of Louisiana. Mr. Chairman, yesterday a gentleman on the Republican side remarked that the hour was approaching 5, and he did not think it in order to make a twilight speech. I am going to observe the suggestion which he made and not extend my remarks beyond 15 or 20 minutes.

I hope that when the House adjourns, if it be in accordance with the precedents and the history of this body, that the Republican floor leader will move to adjourn out of honor to and in memory of the great battle known as the Battle of New Orleans, fought on January 8, 1815, in what is known as the War of 1812. I hope some Members will expatiate, in the extension of their remarks, on the value of that event in our history. I

recall what a former Assistant Secretary of War and presently an honored Member of this House said with regard to the lack of enthusiasm in this House and in another body over the national defense which is absolutely necessary in order to safeguard the interests of this country and to make for the fulfillment of its great destiny.

I am obliged to the chairman of this committee for the suggestion that I should say a few words in connection with this great day in the history of our country. Those who were born by the sea will die by the sea, and the gentleman who has the honor of occupying the chair to-day [Mr. TILSON] is responding to the splendid memories of the long ago which originated in his own great State of Tennessee when her sons followed the fortunes of Andrew Jackson, who won imperishable glory for American arms—a glory which offset the disasters, vicissitudes, and sorry performances of many American soldiers who did no credit to the American uniform in other fights in that war.

I am glad he made the suggestion that I should speak, because otherwise I would have let the occasion pass. I have spoken so often on recurring anniversaries of the Battle of New Orleans that I would abuse the patience of the House if I should voluntarily thrust myself upon it, and I respond only because the chairman has requested me to do so, and I desire to acknowledge the honor he has done me in his own inimitable and characteristically gracious manner.

I was under the impression that a Kentuckian, whose ancestor may have fought in that battle, would speak on this day. I thought that some Tennessean would rise and say something. It was suggested to me that some Mississippian might want to speak, and I was glad to get out of the way; but I found at the last moment that they were affectionately relying upon me to say something in connection with the 8th of January which would express their thoughts. It is a very generous and flattering attitude, particularly as I know that all of them could treat the inspiring subject with far greater elegance and eloquence than I can command.

Now, in all sincerity, gentlemen, I believe in commemorating the great days in the history of this country. I know that after a great war like the World War, and in accordance with the law of compensation that operates incessantly in our thoughts and actions and is present in all of our movements, there was a let-down from that tremendous emotionalism that carried us to the heights, to the very top of the wave, during that holocaust and that there was almost a spirit of cynicism that set in. No one believes there will be war again! The war to end wars is fought and won and that ends it! So why prepare? Ignore the great days of the past; pursue a policy of laissez faire; let things go along as they would go along anyhow. I know I am not adding to your stock of information when I say with all the force at my command that is not the correct policy:

Kingdoms by blood gained must by blood be maintained.

[Applause.]

This country grew by the strong arm and by force. It would be folly to ignore the history of the past. We acquired lands from the Indians and the Mexicans; we worked the negroes, and we did everything that was inevitably and inexorably necessary in order to broaden and expand and become the tremendous factor we are in the civilization of the world. We obeyed the law of our existence and environment and "the lesser breeds without the law," as Kipling calls them, will some day necessarily come up and contest for the splendid position we have to-day, and if we are not prepared we will go down in the black smoke of defeat. That is the law of life, and it would be folly, in my judgment, to neglect the Army and the Navy, as they are the symbols of our power in peace, and in war times expanded to meet exigencies of the hour, a terror to our enemy on land or sea.

Why, gentlemen, the history of all the world furnishes examples. Kingdom after kingdom, dynasty after dynasty, and empire after empire have disappeared and almost been forgotten by historians as a result of having grown effeminate through luxury and ease and the neglect of the power that had brought them to the splendid position they occupied.

Listen to these oracular words from the Temple of Time:

So runs the scroll of human destiny,

Written in fire and blood and scalding tears,  
Scrawled with wrecked hopes and blasted visioning,

The weary record of ten thousand years;

The weary record of peoples and of kings,  
Of empire and of race,

That to the law that ruleth earthly things,  
In ruin yielded place.

You can not make a diamond from the mud,  
Or pearl from salty tear.  
In other worlds other laws may prevail,  
You can not change them here.

Do not neglect force in the way of a proper Army and a proper Navy, for if you do you will pay the price and go the way of all the splendid and gorgeous nations that were once in the vanguard of civilization and then went down into nothingness. [Applause.]

It would be as unwise for this Nation to be without an adequate Army and Navy, both of which we should be able to expand at a moment's notice, as it would be for the city of New York to be without a police department or a fire brigade. Folly, stupidity, and ignorance of history and the gloomy truths her pages teach are no less folly, stupidity, and ignorance because they emanate from good and sincere men and women. It little matters to the expiring nation that the blow was struck by a misguided but honest, good, and sincere friend. Mere goodness and sincerity never yet saved a nation tottering to its destruction and fall. Like honesty, goodness and sincerity are rather common virtues and nothing to blow about. Unless used, exercised to support the Nation intelligently and prepare it for fire and flood, they are negative qualities. In times of peace prepare for war. Beware of the seeming friend of to-day, for he may be the enemy of to-morrow. When observed sanely and reasonably, they are the slogans, too, that make for long life and prosperity for a nation.

Who can tell when and where the next war will start? Who could tell a week before that on August 1, 1914, the world would go afire?

Mr. Chairman, let us observe our great days that record the victories we have won and which have made for our glory and grandeur. Let us keep sacred our battle fields—they are holy ground; they teach us to be prepared, for no man knows what a day may bring forth. First, it was cave man against cave man, then family against family, then tribe against tribe, clan against clan, city against city, state against state, country against country, then combinations of countries against combinations of countries. What next? Will it be combinations of races against combinations of races? Who can tell? The sources, the well-springs from which arise the war spirit and the lust for strife, are so deep-seated that apparently no divining rod will ever fathom their depths. Men have been fighting from the dawn of time—for love or hatred, for possessions, but always the lust for the fight was there—and until it was aroused there was no fight. Commerce, the emblem, the symbol of peace, is in a measure a species of warfare. Let us not wait until a fire breaks out to organize a fire department. Prepare now. It would not be even a gloomy satisfaction to a dying country to feel that its death throes were caused by its own sons and daughters whose pacifism overthrew their reason and their motherland. Idle tears that would not wash away their folly would be of no value to their expiring country—

So felt the struck eagle stretched upon the plain,  
No more through the rolling clouds to soar again,  
Viewed in his own breast the fatal dart,  
And wing'd the shaft that quivered in his heart  
Keen was his agony, but keener far to feel  
That he nursed the pinion which impelled the steel,  
And the same plumage that had warmed his nest  
Drank the last life-drop of his bleeding breast.

Remember, keep alive Jackson and his brave Kentucky, Tennessee, Mississippi, and Louisiana soldiers who put down the flower of the British Army on January 8, 1815. It means keeping alive the spirit by which this great land of the free lives; and when your memory flags and lags turn to this narrative of my own, given on a former occasion, and refreshen yourself by living over again the stirring event which, in a feeble way, I have recorded.

Of course, it is not flattering to ourselves nor agreeable at times to recall the vicissitudes, calamities, and catastrophes of the War of 1812, but I think we should do so, lest we forget the terrible lessons they convey. We should recount that which is ancient in our history for the purpose of gathering a light by which to guide our footsteps in the future, even at the risk of irritating those sensitive souls that recoil at the thought of looking backward to our nights of despair.

Of course, you know that the War of 1812 was disastrous to American arms, and the treaty consummated at Ghent was consummated by England only on the theory that disintegration had already set in and that the States calling themselves the United States would soon be seeking the protection of the mother country and would be Colonies once more, not later

than five years after the signing of the treaty, which would carry it to about 1820.

Canadian, English, and continental newspapers were convinced that the collapse of the young Republic of the West was impending; that it was staggering to its destruction; that its fall was at hand. Monarchists the world over were confident that the United States had run its brief course and that its hour was about to strike.

If England had thought otherwise, she would have insisted upon the harsh terms which she had laid down at the beginning of the discussion of the treaty we sought, so desperate was our situation. She thought we were incapable or did not care to fight. Had not her soldiers burned our Capitol; had they not been almost uniformly successful on land and sea in their encounters with our soldiers and sailors? Did not the apathy of a large section of the country show it was an extremely unpopular war? That is one great reason why our victory on the plains of Chalmette was transcendent in its importance, because it obliterated the catastrophes of that war, which had made school children cry out in the streets of their villages and hamlets and towns at the degradation into which their country had fallen. That condition was deplorable, so deplorable that Lord Castlereagh and others who were in power and in the control of the British Government at the time said that "every port and city in America is in our hands, and the Americans are little better than prisoners in their own land," and gloatingly and boastfully declared that they were in a position to dictate any terms that they might feel inclined to dictate.

But, gentlemen of the House, in order to thoroughly understand the gravity of the situation, not only as our national honor was concerned but the menacing attitude of England and Spain with respect to the vast empire of territory known as the Louisiana Purchase, let us swing backwards; let us turn back the hand of time; let us roll up the curtain on the mighty drama played out on a solemn, brooding, but at times terrible sea stage, the Gulf of Mexico and her titanic daughter, the Mississippi River; let us peer into the days of romance and adventure, the days of the conquistadores, the buccaneers, the pirates, the days that ran through a century and gave to Spain, France, and England their greatest discoverers and sea captains. The history and tradition of that time are so interwoven and blended that it is utterly impossible to separate them if we would—and would we, if we could? For is not history what the great Napoleon said it is—"a fable agreed upon"? And were there not nobler souls than those whose exploits are recorded, if a sacred bard had but sung them into immortality? Some one has written: God conceived the earth—that was poetry; He formed it—that was sculpture; He colored it—that was painting; He peopled it—that was the divine drama.

One thing is certain, every generation has had an opportunity to play out on a grand stage the part allotted to it in the drama of the world and mankind, but in no generation or generations has tradition given to the field of adventure so much poetry, sculpture, painting, song, and romance as to the age of Columbus, Cabot, Hudson, Pineda, Cortez, Pizarro, De Soto, La Salle, without reference to their chronological order, and a score of others such as Drake, Magellan, Morgan, who were not only possessed of the passion of the sea wild life but for booty and spoils also.

But let it not be supposed that these sea marauders were not the heroes of their native lands. They gave a glory to their countries which the regular armies and navies could never win.

But back to our story.

Guided by history's pages, we see Narvaez going from Mexico to Florida and touching at the mouth of the Mississippi River. He was a Spanish conquistador, a nobleman and explorer. That was in 1528. Fourteen years later we see Hernando de Soto viewing the Mississippi River at some place near where the Arkansas joins her. He was a splendid Spanish conquistador, a striking figure in that romantic period, and was buried darkly at night, as was said of Sir John Moore, and left alone with his glory. But he had a magnificent tomb, and the tide of the Father of Waters, rolling all the way to the Gulf of Mexico and on to the Atlantic Ocean, probably furnished to him a funeral train such as was never the lot of any other man in history or romance. Out in the Rotunda of the Capitol, under the Dome, you will see eight great pictures portraying the life of America from the romantic and historical standpoint: one picture by William H. Powell portrays the wonder and amazement of De Soto and his followers when they beheld the Father of Waters gliding southward in its solemn, majestic sweep to the Mexican sea. Years and years elapsed, and in

1673 we find Joliet and Marquette descending the Mississippi River, under the direction of the French governor of Canada, in search of the mighty river that was supposed to run from east to west and connect the two great oceans. Then they returned, having gone as far south as the Arkansas River.

Strange as it may appear, my fellow Members, the idea that a great river ran from east to west and connected the eastern and western oceans remained even among educated people for over a century after these great explorers had gone to that undiscovered country from whose bourne no traveler has ever returned, and I understand that in South America there is still a disposition to believe that there is such a waterway.

Only lately down in Panama it was thought that the Chagres River at one time did make a connection between the two great bodies of water. It is said that Balboa, when he viewed from the hill that bears his name the mighty Pacific, looked for the river that he thought joined it to the Atlantic.

In 1682 La Salle completed the discovery of the Mississippi River and claimed the whole country for France, naming it Louisiana, in honor of Louis XIV.

It is clear to you gentlemen of the Committee of the Whole House from this recital that there must have been an issue between France and Spain in regard to the immense territory involved and flowing from the right of discovery. This is made clear by the fact that in 1762 France, by treaty of Fontainebleau, ceded to Spain all that part of the Louisiana territory lying west of the Mississippi River and the island of Orleans, which is today New Orleans, and in the following year, 1763, by the treaty of Paris, surrendered all of that part of the territory lying on the right bank, and Florida, to England. The desire of Napoleon to create a colonial empire in America led to the secret treaty of St. Ildefonso, in 1800, by which France acquired that part of Louisiana formerly ceded to Spain. This acquisition by the great Corsican and the treaty by which France secured it was denounced as fraudulent by Spain and England, and Napoleon transferred it to the United States for \$15,000,000, as he feared an invasion of the Louisiana territory by England and wished to make us its defenders. Matters drifted, as Napoleon was then at the zenith of his power and the terror of Europe. Then came that terrible day for him and joy for Europe when he had to abdicate and take up his residence in Elba in the early summer of 1814.

England was now in control of the world. Up to this time she was successful in the War of 1812, her chief triumph being the capture and burning of our Capitol. London newspapers teemed with accounts of her easy victory and triumphs and ridiculed a people that could not offer a soldier's resistance to the invaders of their country. Our President and Army—in fact, the population—were mercilessly lampooned upon the stage and derided and sneered and scoffed at in the English journals of the time. Flushed with success on the Continent, England now determined to settle with the infant Republic and give her a military lesson that would break her spirit completely. Therefore one of the conditions to be imposed upon France was the return of Louisiana to Spain and which England would take from us if her ally should not be strong enough to do so for herself.

It was indeed a day of appalling danger for our country. The entire valley was to be trampled under military heel. An immensely large force for that time was to embark from Plymouth for the conquest of the Gulf States, the control of the Mississippi Valley, and the occupancy of the Louisiana Purchase. This army was composed of men who had been under Wellington in the Peninsular wars. General Ross was to have commanded this invading army after Wellington declined its command; but Ross was killed on the banks of the Patapsco and Sir Edward Pakenham was placed in charge, the Duke of Wellington having again declined the command.

It was a dark period for our country. The old martial spirit of the Revolution seemed to be dead. The war was far from arousing any patriotic enthusiasm. Even the school children of America were depressed, downhearted, and saddened at the overwhelming calamities that had befallen their country.

It is clear that if another disaster had befallen our arms instead of the triumph that we won, if another defeat had been our fate, we would have been crushed and overwhelmed by such a catastrophe, England would have occupied New Orleans and taken possession of the Louisiana Territory without another blow, as we would have been at her mercy.

We had sent James Bayard, John Quincy Adams, Henry Clay, Jonathan Russell, and Albert Gallatin to secure a treaty of peace.

But even while the treaty was being discussed the London Sun, as well as the Canadian newspapers, looked forward to and predicted the annihilation of what they scornfully refused to recognize as a military force.

Our peace commissioners were subject to mortification. Michigan, Wisconsin, Ohio, and Indiana were demanded as an evidence of our defeat. This was on September 8, 1814. It is needless to say that these demands were promptly refused by our commissioners.

Keep this fact in mind, my countrymen, for the seeming friend of to-day may be the enemy of to-morrow, and eternal vigilance and watchfulness are necessary to safeguard the interest and unity of the Nation. For on October 24, six weeks later, Lord Bathurst gave Pakenham his commission and orders to proceed to Plymouth and embark there for Louisiana to assume command of the forces operating for the reduction of that Province. All of these warlike preparations were being made while the peace conference was in session at Ghent.

Yes, my countrymen, eternal vigilance is the price, or a part of the price, we must pay to preserve our liberties, our freedom, our institutions. Self-reliance, preparedness, training, resolution, and fortitude should be the cloud by day and the pillar of fire by night to guide us along the road to the goal of our country. Alliances, except for the purpose of trade, do not appeal to a bold and militant people. Courage and that discipline which comes as a result of training from the cradle until the patriot steps on the battle field or the deck of his country's war vessel are what make for a nation's perpetuation and its glory.

It is true a treaty of peace was signed, but let us not forget that it was not a spirit of generosity on the part of England that led to the abandonment of her extraordinary claims and proposed indemnities as an evidence of our humiliation, but because she was assured just at this time and believed that we were so torn and worn by dissension, so near exhaustion, that dissolution was inevitable, and that the dismembered States would seek a new and closer alliance with her as separate and distinct dependencies. In other words, she hoped to secure more by what she considered the inevitable process of dissolution that her informants thought they saw in operation than by force of arms or a too exacting treaty and the harsh terms she had intended to impose. She had not relinquished her rights in the Louisiana Purchase on behalf of Spain, nor had she abandoned her plans to control the Mississippi, for the Pakenham expedition had been hurried across the Atlantic and assembled at Negril, Jamaica, with a full civil government for the Crown Province of Louisiana, as it was referred to by England, and no effort was made to recall it.

As a matter of fact, all plans for the invasion and occupancy of the Louisiana territory were being actively pushed while the peace conference was in session. Do not ever forget this, my countrymen; keep it in mind, lest on some tremendous day we have to pay for our carelessness in blood and tears.

Just at this critical time in the history of our country there loomed on its horizon one who became a great figure in the affairs of this world, one who came out of the woods, like Hosea of old. Tried by obscurity, poverty, pain, danger, and the malevolence that always assails merit, he had overcome disappointment, surmounted every obstacle, subdued and triumphed over every disaster. The perils of the wilderness, the hostility of the savage, the silent antagonism of the trackless swamps and the unbroken forest, melted into thin air before the dauntless courage and martial fire of this hero, warrior, statesman, patriot, and American, Andrew Jackson, whose fiery heart never quailed before any foe, whose crest was never lowered to any enemy.

His fame as an Indian fighter, his wonderful march against Pensacola, his defense of Fort Bower had reached Europe, and Wellington saw flashing across the military skies, not a meteor, dazzling in its brightness for a moment only to plunge into everlasting gloom and darkness, but a rising star of the first magnitude.

I will not dwell upon Pakenham's advance up the Gulf of Mexico and through Lake Borgne, nor upon the skirmish by lake and land, by river and bayou, that preceded the memorable conflict on the 8th of January, 1815. From this Spartan message vision the glory of our victory—the tragedy of their defeat.

American loss: 7 killed and 6 wounded.

English loss: 700 killed, 1,400 wounded, and 500 prisoners.

Among the slain being Pakenham, the gallant leader of the invading force. As are Leonidas and Thermopylae Pass to Greece are Jackson and New Orleans to Americans.

Pakenham was killed. His army, or what was left of it, was withdrawn and afterwards took part in the battle of Waterloo, earning for themselves the sobriquet of "The Invincibles."

The compensations of life—a Chalmette and a Waterloo—for them a disaster and then a triumph.

On what slight things does destiny hang her judgments. In 1762 England had her choice of American territory from France and she demanded and received the right bank, or the Floridas. Had she requested and received the west bank, or the Louisiana Purchase, as it was later known, how different might have been the results—for she would certainly have held, even as she holds Canada, where she was willing to acquire by invasion and conquest—or had she been successful and destroyed Jackson's army and occupied the city of New Orleans, from which to rule the conquered territory. But as a result of her choice in 1762 and the Battle of New Orleans in 1815 the heart of the continent became American soil for all time.

That is the biggest of the big reasons for celebrating an immortal American victory, for that battle, fought on one side by raw and undisciplined but brave and heroic hearts from the wilds of America and on the other side by tried, disciplined, and courageous troops who had won glory on many a European battle field, determined that this Republic should extend from ocean to ocean, and not have the Mississippi River as its western boundary line, with a western Canada paralleling the frontier, menacing it from the present northern boundary line to the Gulf of Mexico and the Republic of Mexico on the south and rolling over prairie and mountain westward from the Mississippi to the shores of the Pacific, with the flag of Britain floating proudly over that which we are pleased to call the great West and Southwest, a different government, different institutions, and with a stranger's life at our doors. One can see from this account what mighty and momentous changes might have taken place if the fortunes of war had gone against us on that memorable day of January 8, 1815. Nations as well as individuals seem at times to have a curious perspective—the great appears small and the insignificant looms large on the horizon of history. As the years move onward into eternity, however, we know that the Battle of New Orleans will take its place with the decisive battles of the world. There are some men who are unbeatable in the larger sense and significance of that word. There have always been and always will be in this world men and women whose deathless purpose must and shall prevail. When men are willing to endure any disaster, suffer any defeat, undergo privation and starvation, meet gloom and catastrophe dauntlessly, knowing, feeling, that they must and shall win, triumph is inevitable. The sheer force of longing to achieve, of desire to attain the goal, of purpose to toil and strain and fight for the end in view culminates irresistibly in reaching the end of the trail gloriously and triumphantly.

Fate determined, apparently, that Pakenham could not win. He was up against the crack shots of the world and men who were as wild and as brave as pioneer life in forest and an unbroken country could make them. Fate apparently ordered it so. Jackson and his army could not be defeated. He may have been driven from Chalmette, but what of that, in view of a determination that could come only to the boldest hearts and to characters selected by fate to carry out inexorably judgments of the highest degree and lead mankind from the lowlands to the peaks of human existence? Had Jackson been forced to retreat from the plains below New Orleans, consequences as spectacular as any in the history of the world would have resulted. For Old Hickory had intended in the event of such a contingency to burn the city, move up the river with all the inhabitants, and as soon as he reached the point where the land begins its incline or upward slope, cut the banks, overflow the city, and annihilate the hopes of the British Army, which could have had one and only one escape, and that would have been by means of rafts with which to make their ships if the swirling tide would permit such an escape. The burning of Moscow, which made its occupancy by Napoleon untenable, would have been nothing compared with the epic that might be written of a city that was destroyed by its people, overwhelmed by the Father of Waters before they would let it be the prize of an invading foe.

That blood, that spirit, that heroic unconquerable purpose is still here—no invader could ever remain for any length of time in our country. Other Jacksons would come out of the wilderness to lead their countrymen in death-defying assaults that would, step by step, drive the foe from our native land. What Jackson did and what he would have done will always remain with the American people to inspire them to do noble things, not dream them all the day long, whenever the hour arrives for us to strike for our altars and our fires. That battle was fought 108 years ago; and its memories, though with us, are inscribed without bitterness upon the long and splendid scroll of the United States of America. On January 8, 1915, we celebrated the centennial of that great event—American and English dead are sleeping side by side down there where the bearded oaks rustle their leaves softly as if whispering and

murmuring a requiem for the gallant souls that are at rest, and forever. Annually that victory is celebrated by banquets and speech making, where men assemble to recount the heroic exploits of Jackson and his magnificent attitude toward life and the courageous manner in which he approached and solved the problems that sprung into existence in his time and had to be met or block the road over which his country was traveling to attain the splendid destiny that is and will be hers. Year after year the greatness and the glory of his followers have been extolled and sung all over our land by fervent, patriotic Americans who have conveyed to listening multitudes the thrill of a victory that will always stand out among America's greatest achievements on land or sea. History can not forget this magnificent record of a momentous event without lessening its appeal to the imaginations of our people.

To-day we stretch from ocean to ocean, and then some, and our sway there is none to dispute. Out into the Pacific, up into the Arctic, and down in southern seas our flag flies to the breeze—

Sun kissed and wind tossed,  
The flag for me and you,  
That glorifies all else beside  
The red, white, and blue.

Old Glory reflects back the "lights" of northern skies in Alaska and the Southern Cross in the southern ocean, because we maintained the Louisiana Purchase on the field of battle January 8, 1815. Let us hear from the hero of Chalmette. Let him speak to us through one-time Congressman William Allen and in a later time a Governor of Ohio. He, too, has gone to join the patriarchs of the infant world, but he still speaks to us from and through this writing:

General Jackson greeted me on the portico of the White House, just as he would have greeted a welcome guest at his own home in the country. Together we walked to the dining room, where the table was already prepared. Following the universal custom of the world of those days, General Jackson invited me to take a drink, and proposed as a toast: "The new star in our flag—Arkansas."

That ceremony having been observed, General Jackson looked at me very earnestly and said, inquiringly:

"Do you know, Mr. Allen, that this new State which has just become a part of our vast Republic is one of the first substantially large fruits of my victory at New Orleans?"

I was surprised, very much surprised, and I said so. I could see no political nor historical connection between the admission of a new State to the Union and a battle which had been fought about 20 years before that admission. I knew and everybody knew that General Jackson was extravagantly proud of his victory at New Orleans, and I supposed that he was giving me a bit of pardonable braggadocio. I reminded him that the treaty of Ghent had been signed 15 days before the Battle of New Orleans, and I said:

"General, I am familiar with that treaty, and it provided for the restoration of all territory, places, and possessions taken by either nation during the war, with certain unimportant exceptions."

"Technically you are quite correct," replied General Jackson, and his smile was more triumphant and proud than before. "But, my dear Allen," said the old hero, "those very words would have been used to defeat the purpose of the American commissioners at Ghent, because the Battle of New Orleans was fought after the war; 15 days after the war technically ceased by treaty."

Now I began to be more than ever interested. I begged the national military hero to tell me the whole story; and he did. He said:

"If General Pakenham with his 10,000 veterans could have annihilated my little army and captured New Orleans and all of the contiguous territory, technically after the war, Great Britain would have held that territory, abrogated that treaty, and utterly ignored Thomas Jefferson's great deal in real estate with Napoleon. Moreover," he continued, "Great Britain had other cards up her sleeve."

Venerable, but as vigorous and swift of action as ever in his life, General Jackson arose, went to a small desk, opened a drawer, took out a bundle of parchment manuscript, brought it to the luncheon table, spread it out, and said:

"Here are the transcripts from the Department of State concerning the famous treaty of Ghent. Here are the minutes of the conference which were kept by Mr. Gallatin, who records:

"The British commissioners emphatically declared: 'We do not admit Bonaparte's construction of the laws of nations. We can not accept it in relation to any matter before us.'"

Still unenlightened, I asked what that statement could have to do with the international situation, and General Jackson explained:

"At that moment not one of our American commissioners comprehended the awfully deep significance of those few words. But every one of the commissioners of Great Britain knew that General Pakenham was on the way to New Orleans with upward of 10,000 veteran soldiers.

"In their judgment—and it was a wise judgment, too—10,000 British soldiers should, and would, clean up and wipe out any army which

America could muster, for the Pakenham invasion was to be a triumphant military coup and surprise.

"Now, I can tell you, Mr. Allen, that I did not know, and my boys behind those bales did not know, what a prize the British were after nor what a service we were rendering our country. We were simply typical American soldiers, fighting for our country as American soldiers always do; ready and willing to dare, do, and die.

"But since I have been President I have ascertained from diplomatic sources of unquestionable authority that the British ministry did not intend to permit the treaty of Ghent to apply to the Louisiana Purchase at all. The whole body, Lord Liverpool, the Dukes of Portland, Greenville, Percival, and Castlereagh, all of them, utterly and emphatically denied the right of Napoleon to sell Louisiana. Therefore, their commissioners declared, 'We can not accept Napoleon's interpretations of international law in relation to any matter before us.'

"Now, you see, Mr. Allen," said the proud old hero, "the British ministry in London held most vehemently that this country had no right to that immense territory—no right at all. They intended to hold that it was entirely extraneous to the terms of the treaty of Ghent. And, if General Pakenham had been successful at New Orleans—as, under all of the ordinary rules of war he ought to have been, with his tremendously overwhelming force of veterans—if he had defeated my little, thin line of riflemen, if he had killed or captured me, if he had won that battle as Great Britain had every reason to expect of him, he would have held his ground. Moreover, he would have fortified his positions, and Great Britain would have sent other veterans enough to forever hold that great prize, the Louisiana Purchase."

Palpably noting the surprise which my features undoubtedly expressed, General Jackson continued:

"Now, you must see, Mr. Allen, that the words which Mr. Goulborn pronounced for the commissioners of Great Britain and which I have quoted from the minutes of Mr. Gallatin, had an immensely deeper significance than the commissioners for the United States could penetrate. Those words were meant to base the British claim for possession of the whole Louisiana Purchase. This was to be entirely external to the provisions of the treaty of Ghent. Moreover, they fully believed that General Pakenham would strengthen their position by capturing all of the salient military parts of the Louisiana Purchase after the war.

"Thus, you see clearly, my friend Allen," continued the proud defender of his country, "that the British Government, always skilled in diplomacy, as well as in war, was signing that treaty with one hand in front; but, with the other behind its back, it was dispatching Pakenham and a magnificent army to seize and hold our greatest and most precious acquired possession, including, of course, Arkansas and an empire beyond.

"Thus you can also see, my dear William"—having several times toasted the new star in our flag—"you can also see what an awful mess such a situation would have caused if the British Government had been able to carry out its military purposes as well and as completely as it did its diplomatic program at Ghent."

After showing me ample proofs of the facts set forth—and you may be sure I was wonderfully interested and patriotically more proud of Andrew Jackson and his boys behind the bales than I had ever been before—the tall, vigorous, gray-haired, proud old hero said:

"But, my dear sir, British diplomacy and British military power combined knew nothing of my Tennessee and Kentucky riflemen. The will of the enemy was strong and intelligent; but the will of God was far above it all. Providence willed that this Nation should live, grow, and be the cradle of the liberty of the world." Then General Jackson quoted a well-known hymn: "God moves in a mysterious way, His wonders to perform."

Reverting to his first statement, General Jackson then said: "Now, you see, my dear Mr. Allen, how Arkansas was saved at New Orleans; and how a thin line of American raw recruits, facing upward of 6,000 brave and fearless veterans, made it possible for us to have the State of Arkansas in our Union to-day."

The luncheon having long been finished, when I arose to leave, my host, whom I then revered as America's grandest living hero, arose, proposed another toast to the new star in our flag—Arkansas—and concluded his narration substantially in these words:

"The astute diplomats, the trained commissioners of Great Britain, cheerfully found it easy to throw sand into the eyes of our honest commissioners at Ghent; but, Allen, they could not ward off the cold lead which my rough and ready riflemen sprinkled into the faces of their red-coated veterans at New Orleans. All of the tangled web that British diplomacy and English cunning could weave about our inexperienced commissioners was torn to pieces and soaked in blood in half an hour by the never-missing rifles of my squirrel-shooting pioneers of the mountains as they carefully took their aim from behind those invulnerable bales of cotton."

Then, hastily flinging from his proudly smiling cheek the trace of a tear, the grand old commander earnestly said: "I wish that those brave boys behind the bales might be here now, Allen, to join us in this final toast of the day to that splendid new star in our flag—the State of Arkansas."

Why should we not celebrate this great day? It was a memorable victory, Mr. Chairman, one that students of American history should never forget, one that our boys and girls should be taught to mention, not only on this day but on all other days.

Mr. Chairman, originally Jackson Day was not treated from a political standpoint. It was nonpartisan, nonpolitical in the method in which it was celebrated—by banquets and ceremonies all over the country. Jackson was a Democrat, and the followers of his party appropriated the day to themselves in a great many cases, and I am not objecting to it, for "I, too, was born in Acadie." I am a Democrat and have no desire to criticize Democrats keeping alive Jackson's political views; but I would always prefer to treat the 8th of January, Jackson Day, as an American day, a day on which all Americans, regardless of party attachments, could gladly assemble and celebrate the great, magnificent, inspiring, and durable victory. Of course, at times it is tedious to talk about Leonidas and Thermopylae. It does not seem quite right to the practical and modern up-to-date fellow, who is thinking of his country in points of industrialism, to talk about the dim and misty and vague past, but our past is not so far distant that we ought to forget it, and we should always keep in mind that the seeming friend of to-day may be the enemy of to-morrow; and we ought always to cogitate upon that Chalmette victory and remember its importance and the treacheries that surrounded it and "what might have been."

It teaches us that eternal vigilance is the price of liberty and we should always be mindful of invasion.

I said once before recently on this floor that I never like to discuss Great Britain's attitude, because even in the minds of the most generous there is in all probability something akin to the thought that there may be acrimony behind my attitude.

Of course, there is nothing of the sort. I am an American first and an English-speaking man in the next place, and I recognize that it is a great common family to-day. English literature is the boast of men who speak that tongue wherever it is spoken, but I can not blind my eyes to the facts of human existence. I know that as a people we fought and tore at each others' throats for four and a half years, and we not only speak the same tongue but we were bound together in fraternal ties. If we fought, why should we gull ourselves, bamboozle ourselves with the idea that we are the same people as our English-speaking cousins across the seas and will never fight with them again? We did fight with them in order to gain our independence. We did fight with them in 1812, and we were ready to fight with them after the Civil War. We were ready to fight with them about the time of the Venezuelan affair, and if her alliances constitute a menace and a danger to us, we will be ready to fight with them again. I repeat, and shall repeat as long as I live, that the lesson of January 8, 1815, should convey to every American mind that eternal vigilance is the price of liberty and freedom, and that we should at all times on land and sea, be ready to meet any foe that might question our rights, challenge our privileges and our desires to be in the vanguard of human civilization. It is a great day. I know there are some who laugh and snicker and have an inclination to sneer at such celebrations. I do not know that it adds anything to their stature, neither does it diminish the importance of the day nor lessen the tremendous victory that was secured on the plains of Chalmette. I know that it is not as important to some minds as the discussion of money, but it is important, nevertheless, to a great many people who do not always think in terms of dollars.

It is well, my countrymen, to recall great historical events and outstanding commanding figures in the arena of peace and warfare, because we can not ignore the historical facts that it is by warfare that we have grown great and rich and powerful and opulent and strong. We have not grown to the magnificent proportions so aptly described by the phrase "from ocean to ocean" as a result of pious reflections and beautifully phrased expressions of peace on earth, good will to men, which may come in time, and which I will not obstruct. I will pray with the most religious for the millenium, but frankly confess that I would not rely implicitly on prayer in the midst of a warlike world. We have grown great and powerful and strong as the result of courage and bravery and a determination to do and dare and never give up, because apparently even when we were beaten, phoenixlike we rose from the ashes of defeat and disaster and gave to freedom and liberty over the earth, and particularly to our country, one of the greatest victories ever obtained by a small and militant band of men struggling against overwhelming odds and the greatest soldiers of Europe.

Let us teach our children to know the history of their country—its trials, its defeats, its disasters, its triumphs, its victories—for, knowing why they should love their country, they will love it with heart and soul. They will love it for the dangers through which it has passed if they are taught to study

and understand what these dangers were; and then they will be on guard against the dangers of the future. Chalmette, America shall never forget. A prayer and a tear for those who won and lost that day. They are in the bosom of their Father and their God.

The muffled drum's sad roll has beat  
The soldier's last tattoo;  
No more on life's parade shall meet  
That brave and daring few.  
On Fame's eternal camping ground  
Their silent tents are spread,  
And glory guards with solemn round  
The bivouac of the dead.

Rest on, embalmed and sainted dead,  
Dear as the blood you gave,  
No impious footsteps here shall tread  
The herbage of your grave;  
Nor shall your glory be forgot  
While Fame her record keeps,  
Or Honor points the hallowed spot  
Where valor proudly sleeps.

The CHAIRMAN. The time of the gentleman from Louisiana has expired. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

Mr. BARBOUR. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair. Mr. TILSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15712) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1930, and for other purposes, and had come to no resolution thereon.

#### ORDER OF BUSINESS

Mr. TILSON. Mr. Speaker, we have not made as much progress on the War Department bill as we should have liked to make and I should like to go on with it to-morrow. I therefore ask unanimous consent that Calendar Wednesday business for to-morrow may be dispensed with.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that Calendar Wednesday business to-morrow be dispensed with. Is there objection?

Mr. SCHAFER. Mr. Speaker, reserving the right to object, will an extra day be set aside for the committees? I notice that some of the committees will hardly be reached before the end of the session if we take away Calendar Wednesday to-morrow.

Mr. TILSON. Some of the committees will not be reached in any event; but if any of them have bills of very great importance, they may be reached by means of a special rule or otherwise. I understand that the Committee on the Public Lands, which has the call to-morrow, has not yet had full opportunity to act on the bills pending before that committee. If the gentleman will recall, there was a vacancy in the chairmanship of that committee which was not filled until very recently. I think it would be very agreeable to this committee to have the call go over for one week.

Mr. COLTON. That is a correct statement.

The SPEAKER. Is there objection?

There was no objection.

#### ADJOURNMENT

Mr. BARBOUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 2 minutes p. m.) the House adjourned until to-morrow, Wednesday, January 9, 1929, at 12 o'clock noon.

#### COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Wednesday, January 9, 1929, as reported to the floor leader by clerks of the several committees:

##### COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Navy Department appropriation bill.  
Independent offices appropriation bill.  
District of Columbia appropriation bill.

##### COMMITTEE ON FOREIGN AFFAIRS

(10.30 a. m.)

Requesting the President to propose the calling of an international conference for the simplification of the calendar, or to accept on behalf of the United States an invitation to participate in such a conference (H. J. Res. 334).

##### COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To consider general legislation.

##### COMMITTEE ON WAYS AND MEANS

(10 a. m. and 2 p. m.)

Tariff hearings as follows:

##### SCHEDULES

Chemicals, oils, and paints, January 9.  
Earths, earthenware, and glassware, January 10, 11.  
Metals and manufactures of, January 14, 15, 16.  
Wood and manufactures of, January 17, 18.  
Sugar, molasses, and manufactures of, January 21, 22.  
Tobacco and manufactures of, January 23.  
Agricultural products and provisions, January 24, 25, 28.  
Spirits, wines, and other beverages, January 29.  
Cotton manufactures, January 30, 31, February 1.  
Flax, hemp, jute, and manufactures of, February 4, 5.  
Wool and manufactures of, February 6, 7, 8.  
Silk and silk goods, February 11, 12.  
Papers and books, February 13, 14.  
Sundries, February 15, 18, 19.  
Free list, February 20, 21, 22.  
Administrative and miscellaneous, February 25.

##### COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

(10.30 a. m.)

Continuing the powers and authority of the Federal Radio Commission under the radio act of 1927 (H. R. 15430).

##### INTERSTATE AND FOREIGN COMMERCE COMMITTEE—SUBCOMMITTEE ON RAILROADS

(10.30 a. m.)

To amend section 15a of the interstate commerce act, as amended (H. R. 8549).

##### COMMITTEE ON BANKING AND CURRENCY

(10.30 a. m.)

Authorizing the erection of a Federal reserve bank building in the city of Los Angeles, Calif. (S. J. Res. 142).

##### COMMITTEE ON EDUCATION

(10.30 a. m.)

To amend section 7 of the act entitled "An act to provide for the promotion of vocational education; to provide for co-operation with the States in the promotion of such education in agriculture and the trades and in industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February 23, 1917, as amended (H. R. 15211).

##### COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

(10.30 a. m.)

To amend the act entitled "An act for the relief of contractors and subcontractors for the post offices and other buildings and work under the supervision of the Treasury Department, and for other purposes," approved August 25, 1919, as amended (H. R. 13857).

To repeal certain provisions of law relating to the Federal building at Des Moines, Iowa (H. R. 13957).

To provide for the sale of the old post office and courthouse building and site at Syracuse, N. Y. (H. R. 15854).

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

729. A communication from the President of the United States, transmitting report from the Chief of Engineers on preliminary examination and survey of Shamokawa (Steamboat) Slough, Wash. (H. Doc. No. 502); to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

730. A letter from the Secretary of War, transmitting report from the Chief of Engineers on preliminary examination of channel from Gulf of Mexico, through Passage Key Inlet, to northern end of Anna Maria Key and into Sarasota Bay, Fla.; to the Committee on Rivers and Harbors.

731. A letter from the Comptroller General of the United States, transmitting report showing the officers of the Government who were delinquent in rendering or transmitting their accounts to the proper offices in Washington during the fiscal year ending June 30, 1928; to the Committee on Expenditures in the Executive Departments.

732. A letter from the Georgetown Barge, Dock, Elevator & Railway Co., transmitting annual report of the stock of said company, the earnings, and expenses for the calendar year 1928; to the Committee on the District of Columbia.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. GRAHAM: Committee on the Judiciary. H. R. 13981. A bill to permit the United States to be made a party defendant in certain cases; without amendment (Rept. No. 2029). Referred to the House Calendar.

Mr. MICHENER: Committee on Rules. H. Res. 284. A resolution providing for the consideration of H. R. 11725, a bill for the apportionment of Representatives in Congress; without amendment (Rept. No. 2036). Referred to the House Calendar.

Mr. LEAVITT: Committee on the Public Lands. H. R. 14925. A bill to authorize repayment of certain excess amounts paid by purchasers of lots in the town sites of Bowdoin, Mont., and for other purposes; with amendment (Rept. No. 2037). Referred to the Committee of the Whole House on the state of the Union.

Mr. WURZBACH: Committee on Military Affairs. S. 3569. An act to equalize the pay of certain classes of officers of the Regular Army; with amendment (Rept. No. 2038). Referred to the Committee of the Whole House on the state of the Union.

Mr. McSWAIN: Committee on Military Affairs. H. R. 15427. A bill authorizing and directing the Secretary of War to lend to the Governor of North Carolina 300 pyramidal tents, complete; 9,000 blankets, olive drab, No. 4; 5,000 pillowcases; 5,000 canvas cots; 5,000 cotton pillows; 5,000 bed sacks; and 9,000 bed sheets to be used at the encampment of the United Confederate Veterans to be held at Charlotte, N. C., in June, 1929; without amendment (Rept. No. 2045). Referred to the House Calendar.

Mr. REECE: Committee on Military Affairs. H. R. 15472. A bill to authorize the Secretary of War to lend War Department equipment for use at the eleventh national convention of the American Legion; without amendment (Rept. No. 2046). Referred to the House Calendar.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SPEAKS: Committee on Military Affairs. H. R. 15060. A bill to reinstate Charles Robert Conroy in the West Point Military Academy; without amendment (Rept. No. 2030). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 5286. A bill for the relief of J. H. Sanborn; with amendment (Rept. No. 2031). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 5287. A bill for the relief of Etta C. Sanborn; with amendment (Rept. No. 2032). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 5288. A bill for the relief of William F. Kallweit; with amendment (Rept. No. 2033). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 5289. A bill for the relief of Loretta Kallweit; with amendment (Rept. No. 2034). Referred to the Committee of the Whole House.

Mr. BOX: Committee on Claims. H. R. 13992. A bill for the relief of N. P. Nelson & Co.; with amendment (Rept. No. 2039). Referred to the Committee of the Whole House.

Mr. McSWAIN: Committee on Military Affairs. H. R. 1393. A bill to correct the military record of Frank Fowler; with amendment (Rept. No. 2040). Referred to the Committee of the Whole House.

Mr. SPEAKS: Committee on Military Affairs. H. R. 6204. A bill for the relief of Rebecca J. Rider; with amendment (Rept. No. 2041). Referred to the Committee of the Whole House.

Mr. SPEAKS: Committee on Military Affairs. H. R. 6892. A bill for the relief of Martha J. Tonguet; without amendment (Rept. No. 2042). Referred to the Committee of the Whole House.

Mr. GLYNN: Committee on Military Affairs. H. R. 12424. A bill for the relief of William Fisher; with amendment (Rept. No. 2043). Referred to the Committee of the Whole House.

Mr. BOYLAN: Committee on Military Affairs. H. R. 14972. A bill for the relief of Sylvester S. Thompson; with amendment (Rept. No. 2044). Referred to the Committee of the Whole House.

#### CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 15963) granting an increase of pension to Mary J. Doyle; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11560) for the relief of Bennion Livestock Co.; Committee on Claims discharged, and referred to the Committee on Ways and Means.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COMBS: A bill (H. R. 16026) to extend the times for the construction of a bridge across the Missouri River at or near Randolph, Mo.; to the Committee on Interstate and Foreign Commerce.

By Mr. W. T. FITZGERALD: A bill (H. R. 16027) to amend an act entitled "An act granting pensions and increase of pensions to certain soldiers, sailors, and marines of the Civil and Mexican Wars, and to certain widows of said soldiers, sailors, and marines, and to widows of the War of 1812, and Army nurses, and for other purposes," approved July 3, 1926; to the Committee on Invalid Pensions.

By Mr. HOFFMAN: A bill (H. R. 16028) to regulate computation of percentage of active pay to be paid as retired pay to officers of the Army; to the Committee on Military Affairs.

By Mr. LEHLBACH: A bill (H. R. 16029) to amend and supplement an act entitled "An act to amend the salary rates contained in the compensation schedules of the act of March 4, 1923, entitled 'An act to provide for the classification of civilian positions within the District of Columbia and in the field services,' approved May 28, 1928, and for other purposes"; to the Committee on the Civil Service.

By Mr. MERRITT: A bill (H. R. 16030) to improve the efficiency of the Lighthouse Service, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAUGEN: A bill (H. R. 16031) to amend sections 4, 6, 8, 9, 10, 11, 12, 25, 26, 29, and 30 of the United States warehouse act, approved August 11, 1916; to the Committee on Agriculture.

By Mr. COHEN: A bill (H. R. 16032) to amend the act entitled "An act to provide for the settlement of certain claims of American nationals against Germany, Austria, and Hungary, and of nationals of Germany, Austria, and Hungary against the United States, and for the ultimate return of all property held by the Alien Property Custodian"; to the Committee on Ways and Means.

By Mr. GOLDSBOROUGH: A bill (H. R. 16033) to provide for the examination and survey of Smiths Island, Somerset County, Md.; to the Committee on Rivers and Harbors.

By Mr. GRAHAM: A bill (H. R. 16034) to authorize the President of the United States to appoint an additional judge of the District Court of the United States for the middle district of the State of Pennsylvania; to the Committee on the Judiciary.

By Mr. MILLER: A bill (H. R. 16035) to extend the time for completing the construction of the bridge across Port Washington Narrows, within the city of Bremerton, State of Washington; to the Committee on Interstate and Foreign Commerce.

By Mr. PRALL: A bill (H. R. 16036) to authorize the cession to the city of New York of land on the northerly side of New Dorp Lane in exchange for permission to connect Miller Field with the said city's public sewer system; to the Committee on Public Buildings and Grounds.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BACHMANN: A bill (H. R. 16037) granting an increase of pension to Cyrene Baker; to the Committee on Invalid Pensions.

By Mr. BLOOM: A bill (H. R. 16038) for the relief of Girolomo Cimbalo; to the Committee on Claims.

By Mr. BRIGHAM: A bill (H. R. 16039) granting an increase of pension to Mary J. Gibbs; to the Committee on Invalid Pensions.

By Mr. BYRNS: A bill (H. R. 16040) granting a pension to Maria H. Bowen; to the Committee on Pensions.

Also, a bill (H. R. 16041) granting a pension to Fred Allen; to the Committee on Pensions.

Also, a bill (H. R. 16042) granting an increase of pension to Thomas H. Rogers; to the Committee on Pensions.

By Mr. COHEN: A bill (H. R. 16043) for the relief of Alice F. Martin and two minor children; to the Committee on Military Affairs.

By Mr. CRAIL: A bill (H. R. 16044) for the relief of Edwina R. Munchhof; to the Committee on Claims.

Also, a bill (H. R. 16045) granting an increase of pension to Nannie H. Moore; to the Committee on Invalid Pensions.

By Mr. ROY G. FITZGERALD: A bill (H. R. 16046) granting an increase of pension to Herman Bertman; to the Committee on Pensions.

By Mr. GOLDSBOROUGH: A bill (H. R. 16047) for the relief of Alice Hipkins; to the Committee on Claims.

By Mr. HICKEY: A bill (H. R. 16048) granting a pension to Elzina Clemans; to the Committee on Invalid Pensions.

By Mr. HOFFMAN: A bill (H. R. 16049) granting an increase of pension to Louise Vansickle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16050) granting an increase of pension to Martha A. Ervin; to the Committee on Invalid Pensions.

By Mr. JACOBSTEIN: A bill (H. R. 16051) granting an increase of pension to Josephine Hargreave; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16052) granting an increase of pension to Mary Cunnean; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16053) granting an increase of pension to Cora E. Pointer; to the Committee on Invalid Pensions.

By Mr. JENKINS: A bill (H. R. 16054) granting an increase of pension to Frank H. Bruce; to the Committee on Pensions.

Also, a bill (H. R. 16055) to correct the military record of Orville D. Dailey; to the Committee on Military Affairs.

By Mr. JOHNSON of Washington: A bill (H. R. 16056) granting a pension to Grant Rodgers; to the Committee on Pensions.

By Mrs. KAHN: A bill (H. R. 16057) for the relief of Ellen B. Monahan; to the Committee on Claims.

By Mr. KNUTSON: A bill (H. R. 16058) granting a pension to Lizzie C. Walsh; to the Committee on Pensions.

By Mr. LAMPERT: A bill (H. R. 16059) for the relief of Arthur H. Thiel; to the Committee on Claims.

By Mrs. LANGLEY: A bill (H. R. 16060) granting a pension to Pricy Riley; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 16061) granting a pension to Emma Nicholson; to the Committee on Pensions.

By Mr. MANLOVE: A bill (H. R. 16062) granting an increase of pension to Mary Dyer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16063) granting a pension to Amanda Bland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16064) granting a pension to Amanda E. Roy; to the Committee on Invalid Pensions.

By Mr. PARKS: A bill (H. R. 16065) granting a pension to Mary Howell; to the Committee on Pensions.

By Mr. PRALL: A bill (H. R. 16066) for the relief of Ex-Ensign Thomas Vincent Corey; to the Committee on Claims.

By Mr. RAMSEYER: A bill (H. R. 16067) granting an increase of pension to Mary C. Childers; to the Committee on Invalid Pensions.

By Mr. SEARS of Nebraska: A bill (H. R. 16068) for the relief of Elizabeth Cachelin; to the Committee on Invalid Pensions.

By Mr. SELVIG: A bill (H. R. 16069) for the relief of G. G. Laugen; to the Committee on Claims.

By Mr. SWING: A bill (H. R. 16070) granting a pension to Belle Seward; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16071) for the relief of T. E. Stephenson; to the Committee on Claims.

By Mr. STOBBS: A bill (H. R. 16072) granting an increase of pension to Ella R. Preston; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16073) granting an increase of pension to Mary F. Bancroft; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16074) granting an increase of pension to Maria G. Kelley; to the Committee on Invalid Pensions.

By Mr. SUMMERS of Washington: A bill (H. R. 16075) granting a pension to Horeb M. Boone; to the Committee on Pensions.

Also, a bill (H. R. 16076) granting a pension to John F. Sales; to the Committee on Pensions.

By Mr. TILSON: A bill (H. R. 16077) granting an increase of pension to Mary Ann McManus; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

8175. By Mr. BACHMANN: Petition of John Szelewa, chairman of the American Citizens of Ukrainian Descent, Wheeling, W. Va., protesting against Polish Government for its barbarous and uncivilized treatment of the Ukrainian people living in eastern Galicia; to the Committee on Foreign Affairs.

8176. By Mr. BOYLAN: Resolution adopted at the regular meeting of the Military Intelligence Reserve Society, held at the Army and Navy Club, New York City, relative to increasing appropriation for reserve officers as provided by national defense act; to the Committee on Military Affairs.

8177. By Mr. CULLEN: Petition of the Military Intelligence Reserve Society, that funds in an amount greater than heretofore provided are needed for training reserve officers during the ensuing year; to the Committee on Military Affairs.

8178. By Mr. CRAIL: Petition of Hollywood Auxiliary, No. 54, United Spanish War Veterans, of Hollywood, Calif., favoring additional hospital facilities at the Soldiers' Home, Pacific Branch, Los Angeles County, Calif.; to the Committee on Military Affairs.

8179. By Mr. GARBER: Petition of Institute of Margarine Manufacturers, 1049 Munsey Building, Washington, D. C., in support of House bill 10958, introduced by Mr. Haugen; to the Committee on Agriculture.

8180. Also, petition of the Wichita Mill & Elevator Co., Wichita Falls, Tex., indorsing House bill 15267, to amend the tariff act of 1922; to the Committee on Ways and Means.

8181. Also, petition of Dixie Post, No. 64, Veterans of Foreign Wars of the United States, National Sanatorium, Tenn., indorsing House bill 9138; to the Committee on World War Veterans' Legislation.

8182. Also, petition of Ed. S. Vail Butterine Co., 4528-4538 Gross Avenue, Chicago, Ill., in opposition to a special rule enabling the consideration of Haugen bill (H. R. 10958) before the House for passage with limited debate; to the Committee on Agriculture.

8183. By Mr. HOWARD of Oklahoma: Petition of Hon. Owsley Lonergan, Pawnee, Okla., on the subject of reciprocal guarantee of credit; to the Committee on Agriculture.

8184. By Mr. JOHNSON of Texas: Petition of Hon. Rufus Hardy, of Corsicana, Tex., indorsing Senate bill 4689; to the Committee on Irrigation and Reclamation.

8185. By Mr. KVALE: Petition of members of the Chippewa Indians of Minnesota, urging a per capita payment out of their tribal fund; to the Committee on Indian Affairs.

8186. Also, petition of railway postal clerks of the St. Paul & Williston Railway post office, of Minnesota, opposing enactment of Senate bill 860; to the Committee on the Post Office and Post Roads.

8187. By Mr. McCORMACK: Petition of F. H. Clark, of J. R. Poole Co., 11-12 South Market Street, Boston, Mass., protesting against the proposed increase of the tariff to 8 cents a pound on beef, lamb, and mutton, as against the present duties of 3 cents, 4 cents, and 2½ cents, and in increase in the duty on butter from 12 cents to 20 cents; to the Committee on Ways and Means.

8188. By Mr. MOORE of Kentucky: Petition signed by H. B. McCoy and 59 other citizens of Butler County, Ky., requesting Congress to pass appropriate legislation authorizing a preliminary survey of Mud Creek with the view of preventing future floods; to the Committee on Flood Control.

8189. By Mr. O'CONNELL: Petition of the Military Intelligence Reserve Society of New York, favoring increased appropriations for training reserve officers; to the Committee on Military Affairs.

8190. By Mr. O'CONNOR of New York: Declaration adopted by the Military Intelligence Reserve Society, indorsing need of increased appropriations for the training of reserve officers; to the Committee on Military Affairs.

8191. By Mr. PRALL: Declaration adopted by the Military Intelligence Reserve Society at its regular meeting held at the Army and Navy Club, New York City, December 19, 1928, received from Capt. Clarence A. Manning, secretary Military Intelligence Reserve Club; to the Committee on Military Affairs.

8192. By Mr. VINCENT of Iowa: Petition of Dixie Post, No. 64, Veterans of Foreign Wars of the United States, National Sanatorium, Tenn., favoring the passage of House bill 9138; to the Committee on Pensions.

8193. By Mr. YATES: Petition of the Illinois National Guard, urging additional appropriations to National Guard items necessary to caretakers and camps of instruction, signed by C. E. Black, adjutant general; S. T. Lawton, colonel; Albert L. Culbertson, colonel, Infantry; Otis Duncan, colonel, Infantry; Fred E. Rand, colonel, Infantry; O. K. Yeager, colonel; Maj. R. C. Rottger; Capt. W. C. Timm, Eval Runsbog, C. M. Cook, R. E. Shouts, B. P. Bruegle, and A. E. Dickerson; Lieuts. E. L. Styles, Charles Bean, W. A. Crookston, Mark Plaisted, Gordon Bellow, M. G. Peter, and W. P. Binney; Col. Charles H. Davis; Capt. George W. McClure; Maj. Dill B. Hordin; and 100 other officers of the Illinois National Guard; to the Committee on Military Affairs.

## SENATE

WEDNESDAY, January 9, 1929

(Legislative day of Monday, January 7, 1929)

The Senate met in open executive session at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate, as in legislative session, will receive a message from the House of Representatives.

### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed the bill (S. 4616) to legalize the existing railroad bridge across the Ohio River at Steubenville, Ohio.

### ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 53. An act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture;

H. R. 3041. An act for the relief of Alfred St. Dennis;

H. R. 4935. An act to authorize the appointment of First Lieut. Clarence E. Burt, retired, to the grade of major, retired, in the United States Army;

H. R. 8798. An act for the relief of William Lentz;

H. R. 8974. An act authorizing the President to order Oren W. Rynearson before a retiring board for a hearing of his case and upon the findings of such board determine whether or not he be placed on the retired list with the rank and pay held by him at the time of his resignation;

H. R. 11071. An act providing for the purchase of 1,124 acres of land, more or less, in the vicinity of Camp Bullis, Tex., and authorizing an appropriation therefor;

H. R. 12897. An act to provide for the acquisition of a site and the construction thereon of a fireproof office building or buildings for the House of Representatives;

H. R. 13033. An act authorizing the Secretary of War to convey certain portions of the military reservation at Monterey, Calif., to the city of Monterey, Calif., for the extension of Alvarado Street;

H. R. 13404. An act authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Louisiana State Museum, of the city of New Orleans, La., the silver service set in use on the battleship *Louisiana*;

H. R. 13503. An act granting the consent of Congress to the State of Minnesota to construct, maintain, and operate a free highway bridge across the Mississippi River at or near Hastings, Minn.;

H. R. 13540. An act granting the consent of Congress to the State Highway Commission of Arkansas to construct, maintain, and operate a bridge across the Ouachita River at a point between the mouth of Saline River and the Louisiana and Arkansas line;

H. R. 13826. An act authorizing the Interstate Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Missouri River at or near Union, Nebr.; and

H. R. 13848. An act to legalize a bridge across the Potomac River at or near Paw Paw, W. Va.

### FINAL ASCERTAINMENT OF ELECTORS

As in legislative session,

The VICE PRESIDENT laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, certified copies of the final ascertainment of the electors for President and Vice President from the States of Ohio, Oklahoma, and Tennessee, at the election held November 6, 1928, which were ordered to lie on the table.

### PETITIONS

As in legislative session,

Mr. JONES presented petitions of sundry citizens of Seattle, Spokane, Prescott, Chehalis, and Palouse, all in the State of Washington, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were ordered to lie on the table.

### REPORT OF THE COMMITTEE ON PENSIONS

As in legislative session,

Mr. ROBINSON of Indiana, from the Committee on Pensions, to which was referred the bill (S. 5060) to aid the Grand Army of the Republic in its Memorial Day services, May 30, 1929, reported it without amendment and submitted a report (No. 1415) thereon.

### ENROLLED JOINT RESOLUTION PRESENTED

As in legislative session,

Mr. GREENE, from the Committee on Enrolled Bills, reported that on January 8, 1929, that committee presented to the President of the United States the enrolled joint resolution (S. J. Res. 139) for the relief of the Iowa Tribe of Indians.

### BILLS AND JOINT RESOLUTIONS INTRODUCED

As in legislative session,

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BARKLEY:

A bill (S. 5251) granting an increase of pension to Elizabeth Inman; to the Committee on Pensions.

By Mr. GILLET:

A bill (S. 5252) for the relief of Arthur D. Story, assignee of Jacob Story, and Harris H. Gilman, receiver for the Murray & Thurgutha Plant of the National Motors Corporation; to the Committee on Claims.

By Mr. SHEPPARD:

A bill (S. 5253) authorizing admission of Jackson A. Findley to the United States Military Academy (with accompanying papers); to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 5254) to extend the times for commencing and completing the construction of a bridge across Port Washington Narrows within the city of Bremerton, Wash.; to the Committee on Commerce.

By Mr. MOSES:

A bill (S. 5255) for the relief of present and former postmasters and acting postmasters, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. ODDIE:

A bill (S. 5256) to amend the act of August 29, 1916, relating to the promotion of officers in the Navy to provide for the promotion of officers who have been wounded in line of duty; to the Committee on Naval Affairs.

By Mr. NEELY:

A bill (S. 5257) granting a pension to George Myers; to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 5258) granting a pension to Lawrence Perry (with accompanying papers); to the Committee on Pensions.

By Mr. WHEELER:

A bill (S. 5259) granting a pension to Old Coyote; to the Committee on Pensions.

By Mr. DILL:

A bill (S. 5260) granting an increase of pension to Helen A. O'Haver; to the Committee on Pensions.

By Mr. SCHALL:

A bill (S. 5261) granting an increase of pension to Daniel Flynn; to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 5262) to establish a term of the United States Circuit Court of Appeals for the Fifth Circuit at Jacksonville, Fla.; to the Committee on the Judiciary.

By Mr. GEORGE:

A bill (S. 5263) for the relief of J. D. Baldwin, and for other purposes; to the Committee on Claims.

By Mr. SHEPPARD:

A bill (S. 5264) authorizing the Los Indios Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Rio Grande at or near Los Indios, Tex.;

A bill (S. 5265) authorizing the Rio Grande City-Camargo Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Rio Grande at or near Rio Grande City, Tex.;

A bill (S. 5266) authorizing the Rio Grande del Norte Investment Co., its successors and assigns, to construct, maintain,